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1925-1926

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UNIVERSITY DEBATERS' ANNUALS

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Vol. V: 1918-1919. E. M. Phelps, editor. \$1.80

Cabinet System of Government.

Government Ownership of Railroads (Three Debates).

Federal Employment for Surplus Labor.

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A Federal Department of Education.

Governmental Restriction of Individual Liberty.

Centralization of Power in the Federal Government.

Popular Referendum on War.

Air Service, A Separate Department of National Defense.

Education, the Curse of the Age.

Child Labor.

UNIVERSITY DEBATERS' ANNUAL

Constructive and Rebuttal Speeches Delivered in Debates
of American Colleges and Universities during
the College Year, 1925-1926

Edited by
EDITH M. PHELPS

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PREFACE

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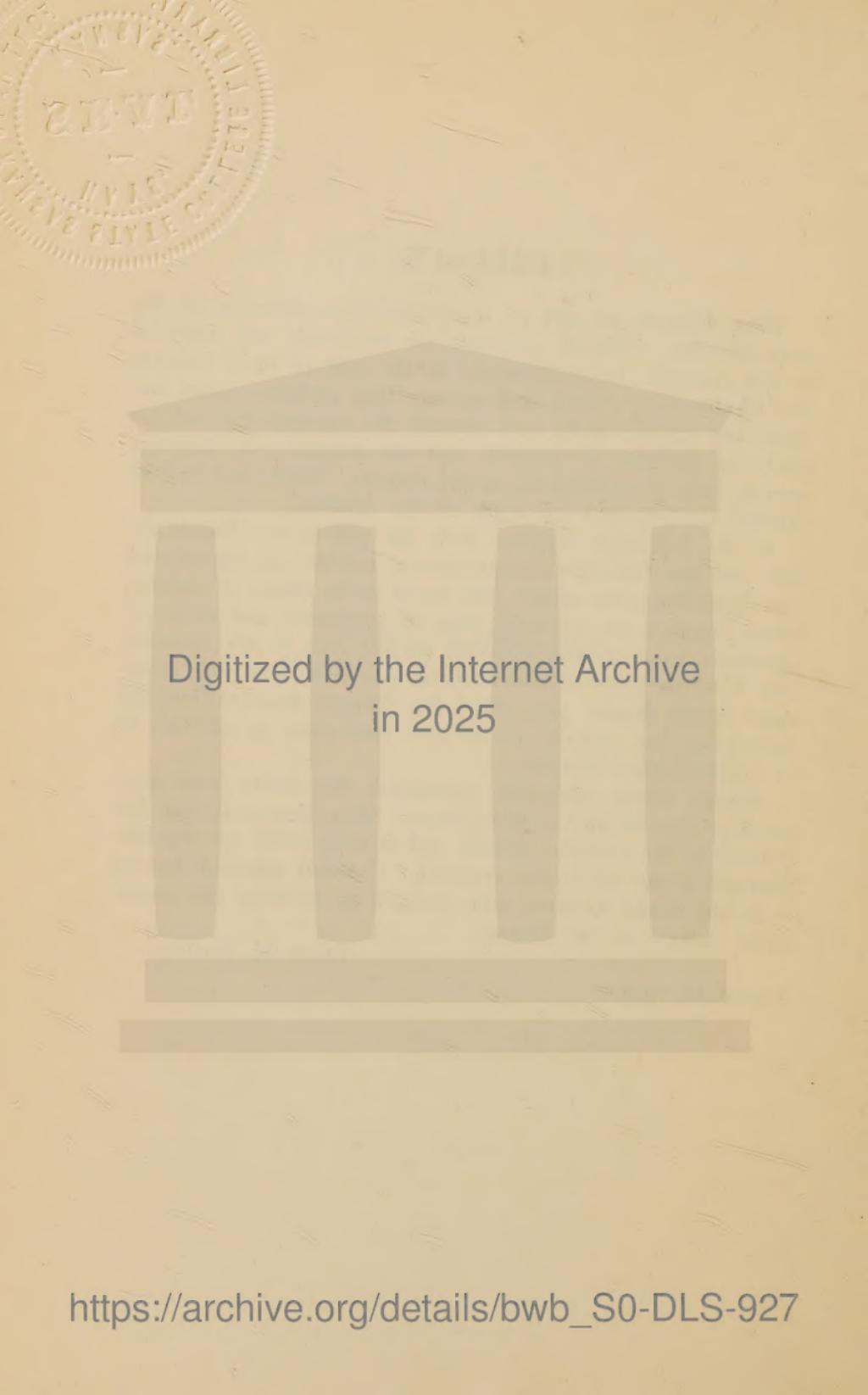
Nine debates, or sets of arguments, representative of the intercollegiate debating activities of 1925-1926, are included in this Annual. In conformance to the plan of these annuals, the debates were chosen both because they presented good material for critical study, and because the subjects covered are likely to continue in interest, and the Annual will therefore provide helpful material for future debates. Briefs and bibliographies are provided for eight of the debates.

In the following chapters both the well-known formal debate and the Oxford-plan-open-forum system are represented. The Yale-Princeton debate was novel in its choice of subject, which required an informal style of treatment, and more independent thinking and speaking on the part of the debaters. The Western Reserve University debate illustrates the "intra-squad forum debate" plan which the Western Reserve Debating Association has carried out the past four years in addition to its intercollegiate schedule.

Except where otherwise mentioned, the briefs were prepared by the compiler of this volume. Miss Eleanor B. Ball has assisted in the editorial details, and is responsible for the bibliographies not otherwise credited. Grateful acknowledgment is hereby made to those who assisted in securing the manuscript reports of the debates.

EDITH M. PHELPS.

Wilson
August 14, 1926.



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CHAPTER I

REVISION OF RULES OF THE UNITED STATES SENATE

DUKE UNIVERSITY
and

NORTH CAROLINA STATE COLLEGE

RESOLVED: That the rules of the United States Senate should be revised as suggested by Vice-President Dawes.

This is a stenographic report of the debate between representatives of Duke University and North Carolina State College, held at Cary, North Carolina, on the evening of Thursday, January 21, 1926, in the auditorium of the Wake County High School and Junior College. The contest took place under the auspices of the four flourishing literary societies in the high school and was conducted in the Oxford-plan open-forum style, each school furnishing one speaker for each side. The audience of some four hundred people participated in the open-forum discussion, which is included in this report. The chairman of the evening was Mr. R. R. Fountain, a Junior in the School of Agriculture of the State College. This report and the accompanying bibliography was furnished by C. C. Cunningham, Professor of Public Speaking and Chairman, Department of English, North Carolina State College.

BRIEF

REVISION OF RULES OF THE UNITED STATES SENATE

AFFIRMATIVE

INTRODUCTION :

- A. The Vice-President of the United States, Charles G. Dawes, in the opening address as presiding officer of the Senate, launched a strong attack against one of its most important rules of procedure.
 - 1. He said, in effect, that the United States Senate does not have the proper kind of rule for limiting debate on a bill or resolution that is being considered by that body.
- B. The present method of limitation of debate, known as closure or cloture, works in this way:
 - 1. Sixteen senators may draw up and sign a resolution to stop debate.
 - 2. This is read and tabled for two days before being put to vote.
 - 3. If two-thirds of the senators vote in favor of it, debate is closed as soon as each senator wishing to do so has talked on the measure for a period of time limited to one hour for each man.
 - a. In the House, each member is allowed not more than five minutes on the floor to speak on any bill.
- C. This is a cumbersome process.
 - 1. It requires three days at least, to become effective.
 - a. If every senator should take advantage of his privilege to speak, it would require much longer.
 - 2. Cloture cannot be ordered at all unless two-thirds of the senators approve it.

D. Recently Mr. Dawes has declared himself in favor of a mere majority cloture rule. (See *Saturday Evening Post*, November 28, 1925. p. 3-4.)

1. His proposal is that
 - a. A vote to stop debate on any measure may be called for at any time.
 - b. If a majority of senators favor the motion, all discussion must cease and the measure must be brought to vote as soon as possible.
2. This was the procedure in the Senate from 1781 to 1806.
3. Under the present Senate rule, any member may talk as long as he pleases, on any measure before the House, whether to the point or not.
 - a. In certain cases, senators have held the floor for hours, reading books, reciting poetry, etc., to kill time and prevent a measure from coming to vote.
 - b. Under the new rule, filibustering could be stopped, temporarily, by a formal call for the previous question ,and, altogether, if the majority voted in favor of stopping the debate.

E. The question for debate, then, really is:

1. Should the present cloture rule of the Senate be replaced by a simple majority cloture rule?

I. The Dawes proposal for a simple majority cloture rule is inherently sound.

- A. It is in line with the principles of democracy on which our government is founded.
 1. In a democracy sovereignty rests with the people as a whole.
 2. Powers are delegated to representatives who are to carry out the will of the people as expressed by the majority on election day.
- B. Majority rule should prevail also in the United States Senate.
 1. It is part of our democratic government.
 2. The present cloture method is most emphatically not majority rule.

- a. Under this method it is possible for even one man to frustrate measures of the majority party.

II. The present Senate cloture rule is objectionable.

- A. Under this rule, individuals or minorities, can block the will of the majority, and weave into our laws modifications dictated by private or sectional interest.
 - i. In sixty-six instances, since May 12, 1910, the majority and minority leaders have had to arrange for unanimous consent agreements to make possible the consideration of important legislation.
 - a. The measures thus held up and sometimes frustrated have been often of vital consequence to the welfare of the nation.
 - 2. Filibustering does exist, and it is a major evil.
 - a. Present rules are inadequate to cope with it.
 - (1) Even after the reforms made following Senator La Follette's filibuster against the armed ships bill, fourteen important measures, backed by the Wilson administration, were defeated by filibuster.
 - (2) During Harding's administration filibustering held up the ship subsidy bill.
 - (3) The Dyer anti-lynching bill and the Muscle Shoals bill were both defeated by filibuster.
 - b. When filibusters are held on one or more bills, other bills fail too by not being reached at all.
 - (1) This sometimes necessitates the calling of special sessions of Congress.
 - B. The Senate is not and cannot be a properly deliberative body until it allots its time for work according to the relative importance of its duties.
 - C. The present rules put into the hands of individuals or minorities, a power akin to the veto power of the President.
 - i. Barters to hold up proceedings are made secretly and behind these is the grasp at political power and advantage.

- a. This results in the majority finding it necessary at times to buy off the minority by secret concessions.
- D. The present rules create multiplicity of laws.
 - I. When filibusters and long delays arising from bar-gainings and debates take up the greater part of a Congressional session, the great mass of bills thus held up are jammed thru during the closing hours.
 - a. Often there isn't even time to read the titles of the bills.
 - 2. The Senate, with inadequate cloture, passes more bills, proportionately, than does the House with its effective cloture system.

III. The alternative reform of the Senate cloture system proposed by Senator Norris of Nebraska is not desirable.

- A. The essential features of the plan are
 - 1. The provision for beginning the terms of office of the newly elected senators on January 1 after election.
 - 2. The provision for leaving open the closing date of the congressional session.
- B. The great obstacle in its way is that it requires an amendment to the Constitution before it can be put in force.
- C. It would be ineffective, if adopted.
 - 1. There is nothing in it to prevent a senator from talking as long as he wants to on any measure.
 - 2. With the closing date of the congressional session not fixed, a filibuster could be kept up indefinitely.

NEGATIVE

- I. The Dawes proposal for reform of the present Senate cloture rules violates the basic principles on which the government of the United States is founded.
 - A. In reality, it is an attack on the very foundation of our present tri-partite system of government.
 - I. It was the idea of the founders that government was to consist of three separate and distinct branches—legislative, executive and judicial.

- a. Each branch was to serve as a check on the other two.
2. It was the intention of the framers of the Constitution also that this should be a republican form of government.
 - a. They included the Senate as an important part of our government.
 - (1) The term "Senate" meant to them a body of men of mature age and judgment, and of tenure of office which removed all temptation of being affected by temporary currents of public sentiment.
 - (2) With an easily applied cloture rule, the Senate would be deprived of its "cooling" power on all legislation passed by the House of Representatives.
 3. The Constitution was not the work of a few men, but the result of the most profound deliberation on the part of the whole nation.
- B. There was no suggestion of mere majority rule in the plan of the Senate as laid down by the founders of our government.
 - i. In addition to the general conditions implied in the term "Senate," special conditions were provided for.
 - a. A dual legislative assembly was decided upon, each act to be considered by two different houses.
 - b. The two houses were to have different constituencies.
 - (1) Every proposed measure would thus run the gauntlet of two diverse interests and be judged from at least two points of view.
 - c. The Senate was to represent the states equally regardless of their size.
 - d. The Senate was to be deliberate in the expression of the will of its members.
 - (1) This is evidenced by the length of the term of office, and by the removal from direct popular vote in method of choice.

- e. The Senate as laid down in the Constitution was, said Lord Bryce, "a recognition of the fact that majorities are not always right, and need to be protected from themselves by being obliged to recur at moments of hate and excitement to maxims they had adopted at times of cool reflection."
- 2. One step already has been taken away from the ideal of the Senate as embodied in our Constitution.
 - a. Election of senators has been transferred from state legislatures to the people.
 - b. To accept the Dawes plan would be to take a second step away from the original plan.
 - (1) It would tend to make the Senate more like the House of Representatives, whereas it was the intention of the founders that they should be different.
- C. The Dawes proposal, to be entirely successful, would require a government by majorities for successful operation.
 - 1. It would require a system like that which prevails in England where majorities, as a whole, do rule in Parliament.
 - 2. To establish the right conditions for majority rule in our government we should have to change from the presidential to the parliamentary system.

II. The Dawes proposal, if accepted, would be a serious danger to our rights and liberties.

- A. It will lead to surrender of the Senate's power into the hands of a political machine.
 - 1. If debate is shut off in the Senate, it will be easy for the political machine, often consisting of only a few men, to dictate the nature of the bills to be considered.
 - 2. Because of the easy cloture rule in the House, which prevents any real debate, the majority of representatives never learn the whole truth about the bills that come to them for consideration.

3. It makes it impossible for the minority to accomplish anything.
 - a. Both majority and minority interests should be given consideration.
- B. It will end the power of the Senate to act as a check on presidential power.
 - i. Future presidents will be dictators.

III. The Dawes proposal would be a violation of the special reason for existence of the Senate as laid down in the Constitution.

- A. The Senate has many functions besides that of law-making.
 1. The confirmation of appointments.
 2. The court of impeachment for the President.
 3. The ratification of treaties.
 4. The discussion of such topics as armaments, World Court, and tax reduction.
- B. If the Senate did not debate these matters, they would never become known, in their true import, to the people.
 - i. If debate had been cut off
 - a. The Versailles Treaty might have been ratified against the best interests and heartfelt wishes of the American people.
 - b. Colonel Forbes might still be in charge of the Veterans' Bureau, and Secretary Fall and Doheny might still be making iniquitous deals for other Teapot Domes.
 2. If public opinion is to be focussed upon measures as they are brought up, there must be free and unlimited debate.
 - a. It no longer exists in the House.
 - (i) The cloture rule killed that body so far as public service and esteem are concerned, on those vital matters of checking executive encroachments and preserving the rights of minorities.
 3. Never has a bill been permanently defeated by a filibuster that the public actually wanted.
 - a. Sometimes the filibuster serves a beneficent purpose.

- (1) It has been used with benefit by a minority working for the best interests of the country, and actually representing public opinion, to frustrate an evil measure urged by the majority.
- b. The President has power to call an extra session of Congress for the purpose of considering and passing even one bill.
- (1) President Taft secured the passage of the Canadian Reciprocity Treaty in this way.
- c. Filibusters have always collapsed under the pressure of public opinion.

4. The cloture rule existing in the Senate today is entirely adequate as a means of stopping debate.

- a. That rule has been used only twice since it has been in existence.

IV. There is a better plan by which the evils in the Senate can be eliminated—the Norris plan.

- A. Vice-President Dawes has already recognized this plan as a good one.
- B. This plan goes to the very root of the trouble
 - 1. The "lame-ducks," and
 - 2. The short sessions of Congress.
- C. It is the presence of the "lame ducks" with their voting power that induces other senators to start filibusters to prevent the passage of obnoxious measures.
 - I. Public opinion could be made felt much sooner by allowing newly-appointed representatives to take their seats in January.
- D. An indefinite closing date for Congress would prevent the killing of time by debate.
 - I. The filibuster is successful only if it is known that Congress has to close its session at a certain day and hour.

REVISION OF RULES OF THE UNITED STATES SENATE

DUKE UNIVERSITY

and

NORTH CAROLINA STATE COLLEGE

FIRST AFFIRMATIVE

J. Edwin Tiddy, North Carolina State College

MR. CHAIRMAN, HONORABLE OPPONENTS, CITIZENS OF CARY: The students of Duke University and of North Carolina State College who are interested in public affairs feel that they need make no apology for discussing an important national question in this community. We remember that the town of Cary contributed one of the most noteworthy figures in public life during the past decade of American history—I almost said world history. The fellow-townersmen of Walter Hines Page will, I am sure, listen with interest to any proposal that is designed to improve the procedure of their national legislature. During the course of our discussion tonight we are going to try to find out whether a change in the rules of the United States Senate is really needed or not, and whether one particular change would be desirable.

As a rule, what the Vice-President of the United States says and does receives very little attention from the American people. One of the recent holders of this office suggested that his chief duty was to stand around behind potted palms at formal receptions and look dignified. Yes, I understand that Mr. Marshall wrote his name on the leaf of one potted palm and said that he located that same plant at a dozen different receptions later in the year. But at the present time we have a man in the office of Vice-President who refuses to remain in back of the shrubbery. Some people are unkind enough to say that he refuses

to be dignified at all. In fact, when the inaugural ceremonies took place last March in Washington, it seemed as if Charles G. Dawes, the Vice-President, attracted as much, if not more, attention than did Calvin Coolidge, the new President. At any rate, Mr. Dawes, in his opening address as presiding officer of the Senate said something that has resulted in this debate being held here tonight. He launched a strong attack against one of the most important rules of procedure in the upper house of our national legislature. He said, in effect, that the United States Senate does not have the proper kind of rule for limiting debate on a bill or resolution that is being considered by that body. The limitation of debate, known as closure or cloture, is a rather complicated process in the Senate. It works at present in this way: If sixteen senators see fit, they may draw up and sign a resolution to stop debate. This is read and is then tabled for two days. At the end of the second day it is put to vote. If two-thirds of the senators vote in favor of it, debate will be closed as soon as each senator who wishes to do so has talked on the measure for a period limited to one hour per man. This plan requires at least three days to become effective, and if every senator should take advantage of his right to speak for an hour after the cloture is ordered it would take much longer. Moreover, you will notice particularly, cloture cannot be ordered at all unless two-thirds of the senators approve it. Now it is this cumbersome process that Mr. Dawes opposes.

You see, it would not be necessary to limit debate in only one way. There are several methods. A fixed time for debate in the whole body could be set. Or, each member could be allowed a certain amount of time to discuss any particular bill. (This is the plan followed in the House of Representatives, where five minutes is the time limit for each member to speak on the floor concerning any bill.) Or, finally, debate could be closed by a vote of the Senate in an easier manner than that provided for in Rule 22, the present cloture rule.

For several months Mr. Dawes did not say what he wanted exactly. Recently, however, he has declared himself definitely in favor of a mere majority cloture rule. You will find his declaration to that effect in the *Saturday Evening Post* for November 28, 1925. By his proposal, therefore, he means that a

vote to stop debate on any measure can be called for at any time; and if the majority of senators are in favor of that motion, all discussion must cease and the measure must be brought to a vote as soon as possible. This is the way things were in the Senate from 1781 to 1806. What our question for debate this evening really means, therefore, is this: Should the present cloture rule of the Senate which involves much manipulation and considerable delay, and which requires the support of two-thirds of the members, be replaced by a majority cloture rule that can be easily applied.

To bring it right home to you, let me explain to you, in a personal way, how the plan of cloture for the Senate which Mr. Dawes advocates differs from that which prevails there at present. You are all members of some organization—your literary society, your lodge, your farm club, your church, your young people's society. Now, as you know, such an organization holds a business meeting once in a while—called a deliberative meeting in the parlance of parliamentary procedure. Now, if in such a meeting you were governed by the present Senate rules, it would be possible for any member of the organization to stand up and talk just as long as he wanted to on any motion that was brought before the house. In fact, he would not have to talk straight to the point all the time, either. He could start off by making it appear that he was going to talk about a certain point involved in the motion, and then he could say or read anything that he pleased. He could recite poetry, or read a novel, or give a lot of dry statistics from some departmental report a hundred years old. He could do anything he pleased to kill time, and the rest of the members would have to let him keep right on for at least two days and perhaps much longer unless they could get two-thirds of the members together to put through a device for stopping him. Of course, you would not all have to listen to him, for you could go out and eat and sleep and do anything you pleased. But, in the meeting, that member would have the floor and nobody could take it away from him. Why, do you know that Senator Smoot of Utah once held the floor for seventeen hours, and that Senator La Follette, "Fighting Bob," talked and read books and papers for over ten hours. That's worse than Blalock and Harris, isn't it? (Referring to two local speakers.) You laugh at that, but that's

just the sort of thing that is possible in the United States Senate under the present cloture system.

On the other hand, if what Vice-President Dawes is in favor of were put into a rule, this is the situation you would have: All members would be given time to actually debate a measure before the house, but if anybody started out to kill time that way—to filibuster, as they call it—he could be stopped temporarily by a formal call for the previous question, and he would have to stop altogether if the vote on that motion resulted in a majority expressing themselves in favor of stopping debate.

Here, then, is the vital difference between the Affirmative and the Negative in the debate this evening. We of the Affirmative contend that a majority cloture rule should be adopted by the United States Senate. The gentlemen of the Negative, on the other hand, are defending the present system of involved and complicated cloture. They may try to draw a red herring over the trail by talking about some other method of correcting the evils which we of the Affirmative shall point out; but the fact remains that they stand for things as they are so far as the Senate cloture rule is concerned, for that rule will either have to be changed, as we advocate, or it will have to stand for a long time, until whatever other remedies our opponents propose can be put into effect. And it may be a very, very long time, Ladies and Gentlemen, bear that in mind!

Yes, the gentlemen of the opposition stand for things as they are. My colleague will clearly demonstrate to you that things as they are in the United States Senate are positively evil, and are in practice resulting disastrously to the American people, to you, to your parents, to all American taxpayers. My colleague will present evidence to prove the viciousness of the system which our opponents are defending. It shall be my privilege in the discussion this evening to point out to you the inherent soundness of the proposal which Mr. Dawes is making.

That proposal is inherently sound because it is right in line with the principles of democracy upon which our nation is founded. I repeat—"the principles of democracy." For this nation of ours, the good old U.S.A., is a democracy. In fact, it is one of the world's oldest and greatest democracies. Now what is a democracy? Well, briefly it is this: a nation in which the sovereignty rests with the people as a whole—a nation

in which there is no absolute king, or emperor—a government, as Lincoln put it, “of the people, by the people, for the people.” But, as the New International Encyclopedia points out, and as all authorities on political science agree, direct democracy is impossible except in the smallest of communities. Only in such small groups can the people as a whole get together and determine policies of government. Therefore, it is necessary to delegate powers to representatives. These representatives are political parties and individual office-holders. And, as every authority on democratic government will agree, it is assumed that when they are placed in power, these parties and these individuals put into operation the will of the people as expressed by the majority on election day. They are the representatives of the majority, whose sovereign will is supreme. As the *Encyclopedia Americana* says, “Modern democracies have found it necessary to adopt the principle of ‘majority rule’ in reaching political decisions. Decisions upon public policies are usually reached by majority vote.”

Now what bearing has all this political science upon our question tonight? Simply this: The United States Senate is part of our democratic government. Therefore, in that body majority rule should prevail. But does it do so? Who could speak on this point better than Senator Underwood of Alabama, the veteran Democratic statesman who is just closing a lifetime of notable public service in both the House and the Senate. In an address at Birmingham, quoted in the *Saturday Evening Post* for November 28, he said: “I had served in the House with your permission for twenty years. I had been the leader of that body; I was responsible for the legislative conduct of a great party . . . and with governmental issues at stake I have been compelled to accept minor amendments to great bills that I will not say were graft, but they were put there for the purpose of magnifying the importance of one man with his own constituency at the point of jeopardizing good legislation in America.” Yes, time and again Mr. Underwood, as nominal leader of his party, had to yield because of the threat of a filibuster, because some senator “might talk a bill to death,” as he himself puts it. That’s the thing that I have already referred to.

Is that majority rule? Why, even the youngest member of

this audience knows that when the leaders of our national parties have to truckle to self-seeking men in that way, it is most emphatically *not* majority rule. In fact, the evil in the Senate today is so bad that it is possible for just one man to hold up and thereby frustrate important measures of the majority party. Not many years ago, Senator Tillman of South Carolina, called "Pitchfork Ben," stood up in the Senate behind a desk piled high with books, and said that he would read every word in those books and would hold the floor until Doomsday unless the Senate approved a local appropriation for South Carolina that was nothing but a hold-up for about \$100,000. Is that majority rule? Why, as a matter of fact, it is the rule of petty despots and self-seekers. It is the very thing that American democracy is opposed to by its very nature as a democracy. For, at the present time, as you see, one man in the Senate has the veto power over important legislation that is harder to overcome than is the veto power of the President. That's a fact! It is easier to pass a bill over the President's veto than it is to apply the Senate cloture rule.

Now we of the Affirmative propose the simple, direct way to cure this evil. Since our democracy is a government by majorities in all its branches, let us apply the rule of majorities to the Senate. Let us have majority cloture there, as Vice-President Dawes has proposed.

FIRST NEGATIVE

J. Edwin Wilson, North Carolina State College

MR. CHAIRMAN, LADIES AND GENTLEMEN: When you take time to think soberly about the matter, I feel sure that you will agree that the first speaker of the opposition this evening is no more convincing than was a certain negro in the story that comes to us from one of our state prisons. The story goes that Mose Johnson, a huge, burly, slow-thinking black boy, was in the death row awaiting execution. Of course, being human, he was interested in saving his neck if there was any possible way to do it. He thought about the matter quite a bit, but the only way he could get away from the death sentence was to secure a pardon from the governor. Mose could read very little and he could not write at all. So he called in the warden and asked him to take down a letter from dictation. The warden got

pencil and paper, and Mose, after five or six minutes spent in thought and reflection, dictated a letter which read like this: "Dear Marse Guv'nor, dey's fixin' to hang me come dis Friday, and here it am already Tuesday. Mose Johnson." The governor was probably convinced of only one thing, that the matter was important. That is the only thing you should be convinced of after listening to Mr. Tiddy's eloquent speech.

The matter of revising the rules of the United States Senate is a matter which is of vital importance to you. Any change in those rules would indirectly affect you as citizens of the United States, as future voters in your own state, and as individuals in your community. You are the people for whom the Senate was established, you are the people who will some day pay into the treasury of the United States funds to cover the vast expenditures of the government which are sanctioned by Congress, you are the individuals who will either be borne down or who will profit by the laws which come from that legislative body at Washington. It is, therefore, your problem to decide whether or not the rules of the Senate should be revised as suggested by Mr. Dawes.

My honorable opponent would have you believe that the proposal is one which is inherently sound and practical. Do not be deceived by his optimistic outlook. We of the Negative will show you wherein the arguments tending to justify Mr. Dawes' suggested plan of revision are futile. We contend: first, that this scheme is one which violates the basic principles on which our government was founded; second, that this plan will not meet the evil conditions which do exist in the Senate; third, that Mr. Dawes himself has based his arguments on a false assumption; fourth and last, that there is a better plan by which the evils in the Senate can be eliminated. As first speaker for the Negative, it becomes my duty to show you wherein the plan proposed by Mr. Dawes is a violation of the basic principles of our government. This, you will note, is directly counter to what my opponent has said, for he contended that the Dawes proposal was in line with American democratic principles. Unfortunately, however, the Affirmative are taking only a superficial view of the problem. Let me show you why.

It is true that Mr. Dawes did attract considerable attention at the inauguration by his unusual action during the ceremony.

It is true that our leading periodicals and newspapers have been literally filled with the accounts of the struggle between Mr. Dawes and the Senate. These reports are but a flash of the combat that is actually going on in America today. Such a question as that of Dawes and the Senate rules is merely like the choppy surface of a troubled sea. Underneath the froth and the foam, there is a deeper, a more vital battle, not over the technicality of rules but over the very principles on which our government was founded. Mr. Dawes with his proposed change has struck, apparently, a blow at the superstructure of the Senate; but in reality it is an attack on the very foundation of our present tri-partite system of government.

To study the full significance of this question we must go into a thorough analysis of the principles on which our government was founded. This our opponents have apparently failed to do. The idea in the minds of the founders was that this government should consist of three separate and distinct branches—the legislative, the executive, and the judicial—each serving as a check on the other two. It was the primary intention of the framers of our Constitution that this should be a republican form of government. Our fathers were profound students of history, and they easily perceived that, although there had been many examples of other republics before them, none had ever existed long without a Senate. The term "Senate" meant to them what it should mean to us—a body of men of mature age and judgment and of a tenure of office which was removed from all temptations toward being affected by any temporary currents of public sentiment. They perceived a real need for the Senate, and it was included as an important part of our government. The story is told how Washington and Jefferson used to disagree as to the real need of the Senate. Washington held that that body was a vital part of the governmental system, and Jefferson just as strongly argued the superficiality of it and the lack of a real need for it. One day while the two men were at tea the subject was brought up. Jefferson poured his tea into a saucer to cool and then began sipping it. Washington asked him what the object was in pouring the tea into the saucer before drinking it. Jefferson replied that he poured the tea into the saucer to cool it. Washington then came back with the statement that the Senate is the saucer into which the tea of legislation must first be poured.

to cool before being given to the people to drink. And, as Senator George H. Moses says, "If the Senate is robbed of its power of deliberation, the saucer for cooling the tea of legislation is removed and many a hot, scalding draught will be poured down the throat of the country." The Senate, with an easily applied cloture rule, would be virtually deprived of its cooling power on all legislation passed by the House of Representatives.

Under the guidance of such men as Washington, Madison, Hamilton and Jefferson, the Constitution of the United States was drawn up—the Constitution which your forefathers and mine ratified, the Constitution which was decreed the supreme document for the American government. It was not a case of three or four men assuming the responsibility of framing the Constitution. The Constitution was, rather, the result of the most profound deliberation on the part of the whole nation.

As I have said, the term "Senate" implied certain conditions which had to be met before the term could be properly applied. The Senate of the United States went further than this, even, and implied certain special conditions. These conditions, as set forth in the *Congressional Record*, Volume XXV, pages 101-10, by Senator George F. Hoar, are: First, our fathers wished a dual legislative assembly, and every act was to be considered by two different, separate houses. Second, the two houses were to have a different constituency, so that every proposed measure must run the gauntlet of two diverse interests and be judged from at least two points of view. Third, the Senate was to represent the states equally regardless of their size. Note that, Ladies and Gentlemen, the Senate was to represent the states as units, not mere majorities of people throughout the entire country. Fourth, the Senate was to represent deliberation in the expression of the will of the members of the Senate, as evidenced by the length of the term of office and by the removal from the direct popular vote in method of choice. Note again, Ladies and Gentlemen, that there is no suggestion of mere majority rule here. Each senator is to use his own judgment, and is unhampered for a term of six full years.

Thus, you see clearly from these four points, that it is not a case of mere majority rule, as our opponents would have you believe. Lord Bryce says, in speaking of the American Constitution, that it is a "recognition of the fact that majorities are

not always right, and need to be protected from themselves by being obliged to recur at moments of hate and excitement to maxims they had adopted at times of cool reflection." The election of mature men to the United States Senate for terms of six years by vote of the state legislatures was an exemplification of this very thing. It shows how far from the ideal of mere majority rule our government was supposed to be. It shows that the Senate was expected to represent deliberation and that they were to exercise individual judgment to a high degree. To be a senator in the old days was, indeed, to be a power in the land; and it was so intended by the founders of our government. Thus, I believe that I am justified in repeating emphatically: the principle of American government was not that mere majorities should always rule.

It is true that the complexion of the Senate has been somewhat changed. This was brought about when the election of members of that body was transferred from the state legislatures to the people directly. Thus the first intention of our founders relative to the Senate has been frustrated: its constituency is much more comparable to that of the House than formerly. Yes, that Seventeenth Amendment to the Constitution was a step away from the ideals of a republican form of government. Experience has taught us that this was bad enough. But today a greater, a graver, a more dangerous step is being attempted by Mr. Dawes. He proposes that mere majorities be the deciding factor in our legislation. This is the real significance of his proposed revision of the Senate rules. He shrewdly tried to avoid an open declaration on that point, as my opponent acknowledged, but he has been forced to tell exactly where he stands. My opponents tell us frankly that they share that view. They think that the real purpose of the framers of the Constitution was that mere majorities should rule. They are like a little boy who once lived across the street from my home in Asheville. I remember him very well; he was about five years old and just about so high. He was a boy who loved to let his imagination run riot. He could tell some of the most exaggerated stories I have ever listened to. One day he was playing in the yard, when all at once he ran into the house to his mother and began telling her about a great, big lion out in the yard, as big as the whole house, with a mouth as large as the kitchen, and teeth as long as a broom handle.

His mother listened to his story and then led him up to the door. There, beside his wagon, he saw one of the neighbor's big shepherd dogs. The boy's mother scolded him and told him that it was wrong for him to tell lies. "Now, Walter," she said, "you must go upstairs to your room and ask the Lord to forgive you for telling a story." Little Walter bounced up the steps and in a few minutes he returned. His mother was anxious to know what he had done, so she asked him if the Lord had forgiven him. He thought a minute and then said, "Mother, I asked the Lord to forgive me for telling that story, but He said that it was all right 'cause the first time He looked at that dog He thought it was a lion, too." Now, those who maintain that the Dawes plan is sound are like Walter. They haven't looked closely enough, or else they are trying to fool even themselves in regard to the real nature of this affair in the Senate.

You must see, My Friends, that there ought to be so much difference between the Senate and the House that you cannot justify an easy cloture rule in the upper house because there is an easy cloture rule in the lower house. Even though the rule was in every way justified in the House, where the power of majorities of the direct representatives of the people from small districts may be the controlling factor, it would not be justified in the Senate. At the very outset, the founders of our government planned that the constituencies of the two houses should be separate and distinct and different. If we are to make both houses alike, what is the need of having two branches of the legislature, anyway? No one would agree for a moment to merging the two branches into one, but many would unthinkingly enact its equivalent by consenting to Mr. Dawes' proposal, a proposal which robs the Senate of its power as a check on the House of Representatives and the Chief Executive. Mere majorities are not always right, and the Dawes' proposal would give unbridled power to the mere majority.

We challenge our opponents to give us one quotation from one of the founders of our government to the effect that mere majorities should rule. It is very true, and we must face the fact, that in many cases we have exalted the idea of the majority and violated the very spirit of the Constitution. But nothing which we have done thus far would be a violation of such import as would the enactment of Dawes' proposal. This

statement is strong, I know, but you can see for yourself how Dawes' proposal would work. By its very nature, it would require a government by majorities for successful operation, and this we do not have, fortunately, in the United States. Yes, the Dawes' proposal, to be entirely successful, would require a system like that which prevails in England, where majorities of the people as a whole do rule in Parliament. There, if an issue arises between the Premier and his government, the supposed representatives of the majority, on the one hand, and the opposition in Parliament on the other hand a resort is had to majority rule. If the opposition defeats his followers in Parliament, the Premier resigns. A general election is immediately held. If supporters of the Premier are returned in a majority to Parliament, he continues in office; if the majority is won by the opposition, a new Premier is chosen. That method of procedure is one which really and truly sanctions the rights of bare majorities. To have the same conditions in our government, we must first abolish our presidential system and establish the English parliamentary system. Then, but only then, would we have a set of conditions which would make the Dawes proposal function properly. But this condition is one that is contrary to the political thinking of the citizens of the United States. As long as we hold to the principles of the American Constitution this condition will never prevail. Thus an insuperable barrier is thrown in the way of carrying out our opponents' scheme for giving mere majorities full power without endangering our rights and liberties. Under a system like that of England it would probably work all right; under the American system it has no place. To put their plan into successful operation, therefore, we should first have to adopt the English parliamentary system and throw away the American presidential system. Just bear that fact in mind when our opponents talk about the impracticability of any plan which we shall propose to cure the present evils in the Senate.

Just a moment ago I used strong language. I spoke of endangering our rights and liberties. If you shut off debate in the Senate it will be a comparatively easy task for a political machine, often consisting of less than a dozen men, to dictate the nature of the acts which shall receive consideration in the Senate. At the present time, because of the easy cloture rule in the House which prevents any real debate, the majority of

the representatives never know the whole truth about the bills which are passed and come to us as laws, laws for you and for me to obey. Measures which have passed the Senate, after due deliberation under the present system, have thus been refused consideration in the House, because they have been held up by selfish party machine politicians. Just one example of what I am talking about. There was twice passed in the Senate a proposed amendment to the Constitution to the effect that the time for members of the national legislature to take office should be changed to January following the election in November, rather than, as at present, in March, thirteen months later. This proposed amendment never even saw the light of day in the House. Why? A few political bosses saw fit to kill it because it might pass and because it might eventually hamper their control of legislation. This sort of thing happens time and again in the House, and why? Because the easy cloture rule makes it impossible for members of the minority group to really do anything. In fact, as we look at some of the things which are done by mere majority powers at Washington, powers which are put in office for fixed terms, we are almost tempted to say, with the Norwegian dramatist Ibsen, "The minority is always right." Of course, we don't go that far exactly, but our opponents do contend that the majority is always right. You see, Ladies and Gentlemen, both majority and minority interests should be given much consideration—even though that minority be very small. Yet this is what the Dawes' proposal in regard to the Senate rules would distinctly not do.

The whole fact of the matter is this: Mr. Dawes and his friends do not think in terms of either statesmen or political scientists. They do not realize the full significance of their own proposal and its threat against fundamental constitutional guarantees as regards the difference in constituency between House and Senate and as regards the rights of minorities. As Senator George says in the *Literary Digest* for March 14 last, "Dawes comes to the Senate from the business world where there is impatience of restraint. Here in Congress restraint is necessary as a check against hasty and ill-considered action and to prevent the complete domination by the executive authority."

Even more striking is the way in which N. D. Cochran, a prominent journalist, puts it in the *Washington News*, "Dawes is leading a fight to fool the people of the United States into

making the Senate surrender its power into the hands of a political party machine. . . . An organized campaign is on to discredit the Senate, with Dawes as chief spokesman, proposing to strengthen the executive branch of our government at the expense of the legislative. If Dawes' scheme works, the Senate ceases to be a check on presidential power, and future Presidents will be *Dictators*." That, you see, is the real significance—not the mere surface aspect—of the question we are discussing tonight. That is why you, as Americans who love our republican system, in which the rights of minorities have full protection, and in which there is separation among the three branches of government, that is why you will vote against the revision of the Senate rules proposed by Dr. Dawes and my opponents.

SECOND AFFIRMATIVE

George B. Johnson, Duke University

MR. CHAIRMAN, LADIES AND GENTLEMEN: My opponent has just finished telling you some very pretty little stories which I am sure we all enjoyed. He disappointed me in one thing, however, for every minute I was expecting him to get around to the one about the great big "nossyrosserous" that flew in the window and which little Jimmie speared with a hatpin. Unfortunately, he left that one out.

One thing he said caught my ear—the comparing of the Senate to a saucer. That is my idea exactly; the Senate should be a saucer. Only at the present time, because things get clogged for want of a good cloture rule, the Senate becomes more like a big, vast reservoir in which many good measures are inundated and lost.

A quotation has been called for by the Negative regarding the rule of majorities. It will be a distinct pleasure for my colleague to give that quotation in his rebuttal.

Turning again to the last speaker, who has just finished making some rather misleading remarks, the impression from which I must hasten to correct. He says this, in effect: "Majority cloture would lead to grave frustrations of our present governmental purposes." Majority cloture rules were in effect during the first seventeen years of the existence of our Senate and were abandoned, mark this, now, and were abandoned only because the small number of Senators made them unnecessary.

Have the ideals, the principles of our government, changed from those of 1781? No, and again, No—despite the argument of the opposition. I challenge my opponents to say that minority right is not sufficiently protected by the very inherent idea of representation in the Senate and, further, by the power of the Supreme Court to declare any act null and void which infringes on the rights of the minority.

Here is the way the debate stands thus far: my colleague has shown you that the Dawes plan is sound in its inherent characteristics; my opponents say, in effect, that the spirit of our Constitution and of American institutions has changed, because majority cloture rules, perfectly all right in 1800, should not be used now.

Before going into the constructive part of my argument, I want to sketch for you a little picture, a picture which we of the Affirmative wish to "harp on." Suppose a body of men were gathered to discuss and act upon any matter of importance, and one got up and said, "Before we start, let it be understood that any one may talk as long as he wishes on any subject relevant or irrelevant, even though he has the specific purpose in mind of depriving us of the right to act." That man would be hooted down! Yet such an idea is the inherent idea of filibustering. Just such a proposal as that now actually obtains in the United States Senate. This is the evil which we of the Affirmative desire to eradicate.

All great parliamentary bodies in the world, save our Senate, when, after discussion they desire to act, can close debate by a majority vote. I challenge my opponents to name a single great legislative body which does not have this rule. I further challenge my opponents to say that a minority has more wisdom or more honesty than a majority. We of the Affirmative advocate the idea of majority cloture, yet so guarded that every senator shall have the opportunity to be heard fully upon any question; but shall not be permitted frivolously or uselessly to prolong his speech-making for the purpose of preventing any action by the Senate, pursuant to its constitutional duties.

Here are our principal objections to the Senate rules as they now stand:

First, under these rules individuals or minorities can, at times, block the majority in its constitutional duty and right of legislation. The right of filibuster constantly weaves into our

laws, which should be framed for the public interest alone, modifications dictated by personal and sectional interest.

Second, the Senate is not and cannot be a properly deliberative body until it allots its time for work according to the relative importance of its duties, as do all other great parliamentary bodies.

Third, these rules subject the people to a power in the hands of individuals and minorities never intended by the framers of our Constitution. In the words of Senator Pepper of Pennsylvania, a senator whom opponents of the Dawes plan quote, by the way, the Senate has so amended our Constitution as to make it possible for a 33 per cent minority to block legislation.

Fourth, the present rules put in the hands of individuals or minorities, at times, a power akin to the veto power of the President, and, furthermore, allow a few men at times to compel the President to call an extra session of Congress.

Fifth, the present rules create multiplicity of laws.

Sixth, our Senate can never be a dignified body under the present system of palaverings and cheap partisanship.

When the suggestion is made to change the Senate rules, we combat a deep-rooted instinct of selfish human nature—a desire to retain personal power and prerogative. Since May 12, 1910, in sixty-six instances the majority and the minority leaders have had to arrange for unanimous consent agreements to enable the consideration of important legislation. This means that the leaders must go to each Senator and get his individual consent, in order that the Senate may even have a chance to act on important legislation. These measures thus held up, and sometimes frustrated, by individuals and minorities are many times of vital consequence to the welfare of the nation. And the leaders must consider whatever conditions, in regard to other legislation, an individual senator may desire to impose as the price of his acquiescence.

Filibustering does exist and it is a major evil. A slight and inadequate reform was made in 1917, right after Senator La Follette and his cohorts—a small minority—had filibustered against the armed ships bill. Yet the inadequacy of the present rules to cope with filibustering was shown when, in that very Congress, with the reformed rules in force, six major appropriation measures and eight other measures favored by the Wil-

son administration were defeated by filibuster. An extra session of Congress had to be called, as some of you will remember. This is exactly what has happened in seven of the last eight years.

During Harding's administration filibustering held up the ship subsidy bill. Two years ago the Dyer anti-lynching bill was held up by filibuster. During the last session of Congress the Muscle Shoals bill was filibustered to death. Who is authorized to state public sentiment on these bills? Perhaps some would have been approved by the people if they could have voted; perhaps some would not. But that is not the only point in regard to the filibuster. When filibusters are held on one or two bills, other bills are not reached at all, and thus fail. Think of this: as a result of the filibuster on the Muscle Shoals bill, the following bills were not reached, and, therefore, failed of passage: the Pepper-McFadden banking bill, the railroad consolidation bill, the departmental reorganization bill, the public buildings bill, the statute codification bill, the Cape Cod canal bill, the bill for civil service classification of prohibition agents. Who is authorized to state what public sentiment may be upon these bills? What about the many appropriation bills defeated through the consumption of time by filibuster in different Congresses, compelling extra sessions? These bills certainly were not condemned by public sentiment.

Barters to hold up proceedings are made in large part secretly, and behind these, as behind all filibustering, is the grasp at political power and political advantage. It results, as we have said before, in the majority finding it necessary to buy off the minority in secret by concessions. Senator Tillman of South Carolina has been mentioned by my colleague. I just must touch on him again, for his case is absolutely typical. He effectively blocked a Republican tariff bill until special privilege had been granted to South Carolina. That was representing a state with a vengeance, wasn't it, Gentlemen of the Opposition? Can anyone in this hall this evening think for a minute that such improper handling of political advantage is a procedure that could, in any way, lead to better government? Yet it is a characteristic of the present system of procedure that grows out of the lack of effective cloture in the Senate. It is one of the things that the Negative are defending tonight, for they say that that system is all right.

Turn to another point. The absence of cloture rules increases, yea multiplies, the number of laws. This is brought about by vice of the fact that, when filibusters and long delays resulting from palaverings and debates take up the major part of the time of a congressional session, the great mass of bills and measures which have been thus held up are jammed through during the closing days and hours of the session. It has been admitted by senators many times that frequently there isn't even time to read the titles of the bills. They are just crowded through, willy-nilly. The Senate, with inadequate cloture, passes many more bills, proportionately, than does the House, with its effective cloture system. Today people everywhere are railing against the vast number of laws that are on the statute books. Hence, any system that tends to add to these laws is to be condemned. The present Senate cloture situation does this unmistakably. Most people, then, condemn what our opponents uphold.

Many of the senators themselves realize that things are not what they ought to be so far as the method of conducting business is concerned. Such men as Pepper of Pennsylvania and Norris of Nebraska are spokesmen for methods of improving Senate procedure. The plan advocated by Senator Norris is probably the best known substitute for the Dawes proposal of a majority cloture. Our opponents may mention it in the course of their constructive case. The essential features of the plan are the provision for beginning the terms of office of newly-elected senators on January 1 after election and the provision for leaving open the date of closing the congressional session. But the great obstacle that stands in its way is the fact that it requires a constitutional amendment. My opponent referred to the fact that one feature of it has been twice proposed by the Senate, but has gotten no further toward adoption. Yes, it must go the long, arduous route of a constitutional amendment. And because of that fact, let me hold our opponents right here to a little point of logic. Say that the Dawes plan remedies filibustering and that the Norris plan also remedies filibustering. Each of them probably would—nay, certainly the Dawes plan would, for it goes directly to the heart of the trouble. For the sake of argument, let us suppose that the Norris plan would also. But, it will take a long, long time for the Norris plan to

pass. Why not pass the Dawes plan right now and let it remedy the evil from the present moment until the time that the Norris plan does pass? I challenge my opponents to answer that question. If you want to change the date of closing Congress and amend the Constitution and various other things—all right, consider doing so. We are glad to admit that the Dawes plan doesn't do that. We are debating tonight, however, a revision of the Senate rules. If you favor that, Ladies and Gentlemen, we offer you the Dawes plan—ready, accessible, efficient.

Even so, the Norris plan is ineffective. Is there anything in it to keep a senator from getting up and talking and delaying action for three months if he wants to? If one senator did that from January to March, as he could do under the present system, what good would it be to have the senators start their terms of office on January 1? Moreover, how much good would be accomplished by having the closing of the Senate session indefinite. Couldn't a filibuster be kept up indefinitely? What would prevent the men taking part in it from reading every book ever written? We challenge our opponents to "come clean" on these questions. They can't do so, yet until they can the Norris plan may be relegated to the background, where it belongs.

Now in closing, I wish to ask if my opponents dare maintain that under a democratic government the power to kill legislation providing for revenue to pay the very expenses of government should, during the last days of a session, be in the hands of one senator? It is so at present under the system my opponents are defending.

Next, will my opponents dare contend that, in the last analysis, the right of the Senate itself to act should ever be subordinated to the right of one senator to make a speech? Yet it is so at present, under the system my opponents are defending.

Will my opponents dare contend that a minority should ever be able to compel the President of the United States to call an extra session of Congress in order to keep governmental machinery running? Yet that is the case at present, under the system my opponents are defending.

Ladies and Gentlemen, I say to you that this system of rules, if unchanged, will, by every law of human nature, lessen

the effectiveness, the prestige, and the dignity of the United States Senate. The revision suggested by Mr. Dawes must be adopted.

SECOND NEGATIVE

Hanselle L. Hester, Duke University

MR. CHAIRMAN, LADIES AND GENTLEMEN: The gentlemen of the Affirmative who has just taken his seat has urged that we accept the plan of Vice-President Dawes, yet he has not denied the fact pointed out by my colleague that the only perfect way to eradicate the "willful minority," as that group has been called so often, would be by the introduction of the English system as it now stands. That, as my colleague clearly demonstrated, is the only way in which genuine majority rule can be gained in a democratic government on a large scale. But there is not one of you who would submit to the introduction of such a system. As a matter of fact, in spite of the disparaging remarks and comments of my worthy opponent, you know that the Senate of the United States is one of the great bulwarks of our governmental system—especially so far as minority rights are concerned, and is likewise one of the greatest deliberative bodies in the world. In this connection, I should like to hurl at the gentleman who likes so well to hurl challenges a challenge to himself. Can he name any deliberative body among the nations of the world in which the standard of intelligence, political sagacity, and personal rectitude is higher than it is in the Senate of the United States? Not since the famous Roman Senate of old has there been in the world so distinguished a body of men engaged in parliamentary deliberation. And that statement applies as well to the Senate of Clay and Calhoun and Webster as it does to the Senate of Borah and Reed and Walsh and Norris and Simmons! You people of Cary know enough to take pride in the type of men who represent the American people in that body, and you are justly proud of the two who wear the toga for the Tar Heel State. The Senate has its important part to perform under our constitutional system and it is performing that part nobly under its present rules. As my colleague repeatedly pointed out, a limitation of the powers of the Senate will destroy the effective balance-wheel between the President and the House. Then will our government fail to be

what our founders intended it to be. Furthermore, you would be giving dictatorial powers to the chief executive. The head of the majority party could become an American Mussolini. For instance, will the opposition deny the fact that it was not a good thing that the appointment of Mr. Warren as Attorney General was discussed as carefully as it was? Yet if the plan that Mr. Dawes advocates had been in effect that appointment might have been made and the past history of the man would never have been made known to the public. It was the long debate in the Senate that brought out those facts regarding him which revealed him as palpably unfit for the high office for which he had been named. Thus his defeat was made possible by the present Senate rules of unlimited debate. You see, Ladies and Gentlemen, we of the Negative are arguing for a principle—not merely for a change in Senate rules that is only a surface matter. Back of that proposed change is a sinister plan to destroy the American system of checks and balances and to deprive the minority of their rights. The case, as my colleague has already stated it to you, is simply this: Vice-President Dawes would pass legislation to further limit the power of the Senate by suppressing long debates, thus making the House and the Senate practically the same—both absolutely subservient to the will of the majority party, even though it were a bare majority party with only 51 per cent of the votes. Not only does it raise the question, Why have two Houses if both are to be alike and if both are to be mere wheels in a party machine; but it also raises the question as to whether we would get from such a system legislation which is beneficial or detrimental to the interests of the country. Will a majority party always consider the welfare of the nation, or will it not occasionally—perhaps habitually—consider only its own advantage and the possibility of prolonging and strengthening its dominance? That is for you, the citizens of Cary, to answer. Your own senator, the Honorable F. M. Simmons, leaves absolutely no room for doubt as to his opinion in this matter. He says, "The radical changes proposed by Vice-President Dawes would very often result in ill-advised legislation." He says this out of an experience of over twenty-five years as a lawmaker. Can you afford to disregard his word?

It is my pleasure, in continuing our constructive case, to add to what my colleague has already said regarding the inherent

weakness of the Dawes proposal and to show that it is unacceptable from both a logical and a psychological standpoint. I shall also give you an outline of the Norris plan for remedying present evils which, we admit, do exist in our congressional system, and I shall show you the reasons why it can successfully and adequately meet the situation.

Ladies and Gentlemen, the Dawes proposal of a majority closure is logically unsound because it would be a violation of the special reason for existence of the Senate laid down in the Constitution. Whatever clearly violates the Constitution of the United States will, we feel sure, be rejected by the American people. Let me, accordingly, show you how the Dawes proposal violates that document in letter and in spirit. The Senate, you must remember, is not only a law-making body. It is not exactly like the House of Representatives, and never should be made so, as my colleague pointed out. It has many other important functions. Where do we have our confirmation of appointments? Where is the court of impeachment for our President? Where do we have the ratification of treaties? Where do we have the discussion of such topics as armaments, the World Court, and tax reduction? All of these are distinctly the business of the Senate. If the Senate did not debate about these matters they would never become known in their true import to the entire American people. There is not a single person here tonight who would deny the fact that it was a good thing that the Versailles Treaty did receive the discussion that was accorded it in the Senate. Yet if Mr. Dawes' proposal had been in effect at that time, a mere majority could have closed all debate and discussion at any time. Possibly that treaty would have been ratified against the best interests and the heartfelt wishes of the American people. This is a concrete evidence of the soundness of the existing rule. Again, look at the Veterans' Bureau scandals, look at Teapot Dome, look at the attempt by selfish private interests to grab Muscle Shoals, look at the attempt to foist upon the south the Dyer anti-lynching bill—a measure which would have humiliated beyond endurance the people of sovereign states. Every one of these matters were brought to the attention of the public as a result of the long discussions and debates, amounting sometimes to heated wrangles, that took place about them in the Senate

of the United States. Why did they not come to light in the House? Find the answer to that question in the cloture system, which shuts off all inquiry and debate, and which makes that body just part of the party juggernaut that rides over all opposition in the interests of its henchmen and office-holders. If the Senate had been like the House as to cloture, Colonel Forbes might still be in charge of the Veterans' Bureau, and Secretary Fall and Doheny might still be making more iniquitous deals for other Teapot Domes. As Senator Copeland of New York puts it, "If we are to continue to have the focussing of public opinion upon measures as they are brought up, then we must have free and unlimited debate." Yes, we must have free and unlimited debate somewhere. We don't have it in the House any longer, and that body has sunk into oblivion as a national deliberative assembly. The closure rule of the House killed that body so far as public service and esteem are concerned on those vital matters of checking executive encroachments and preserving the rights of minorities. Mr. Dawes, in his shrewd way, and our opponents in their headlong enthusiasm, would bring the Senate down to that same low level. Just as in the House, a measure favored by the party in power, no matter what its merits or demerits, gets through the machine—it rides, whether good or bad. Not so in the Senate, and you, as loyal Americans are glad that it is not so. Under the Dawes proposal a clique, a "kitchen cabinet" composed of a few men close to the party leader and executive, could agree upon legislation which was to be railroaded through by mere majority power; while, on the other hand, the American people might be denied laws that they wanted and needed.

Right in this connection, let me refer to my opponents' talk about the evil of filibustering. I desire to make the point that never has a bill been permanently defeated by a filibuster that the public actually wanted. On the contrary, you have been protected from many sinister and impulsive laws by means of the weapon of the filibuster placed in the hands of a minority in the Senate. The ship subsidy bill, for example, was introduced into Congress after the November election during the second year of the Harding administration. In that election the ship subsidy had been an issue, and the people had voted against those men who were known to support it. Moreover,

other men had been defeated in that election and had lost their seats in the Senate. But, under our present system, they retained their seats until the inauguration of the next Congress, thirteen months hence. These men are referred to as "lame ducks," because they have been defeated back home for reelection. Well, there were enough of them sitting in that Congress to have voted for the bill and passed it. They thought that their vote in favor of the subsidy might bring them political advantage, for President Harding was known to personally sponsor it. Here, then, was the situation: the people of the country obviously did not want the ship subsidy; yet the "lame ducks" were ready to put it through, anyway. What happened? A few senators began a filibuster, and by the exercise of the power of that device kept this pernicious bill from passing. Was there any doubt as to which group was in public favor—the majority or the minority? Not a bit of it. Next year, when the new Congress assembled, the bill was overwhelmingly defeated by the real representatives of the people. But what would have happened if it had not been for the beneficent use of the filibuster? An evil and unwanted piece of legislation would have been foisted upon the country. Thus, you see, the minority was working for the best interests of the nation, and they actually represented public opinion. The same is true of the Dyer anti-lynching bill. It was proposed in Congress merely for the sake of party satisfaction, but neither of the two great parties was heartily in favor of it. If it had come to a vote, however, it might have passed, for a number of senators had been pledged to support it. Senator Oscar W. Underwood—note that, Ladies and Gentlemen! the man whom our opponents quote so confidently—was one of the leaders in the filibuster which killed that bill and saved you from that objectionable piece of legislation! Thus, you see, even our opponents' authority himself uses the filibuster on occasion, and so would you, or I, or any one who had the power to do so, if we saw that an evil measure was about to prevail if we did not do so. The filibuster is not the evil thing our opponents would have you believe. Sometimes it is a flaming sword of righteousness, standing across the path of evil men and keeping them from their evil ways.

Now turn, if you please, for a moment to a slightly different phase of the same subject. No law that the public actually

wants can be permanently killed by a filibuster, for the President has the power to call an extra session of Congress for the purpose of considering and passing one bill, and for that purpose alone. For example, in 1911 President Taft desired the passage of the Canadian Reciprocity Treaty, but it was temporarily blocked by a filibuster. True to his threat, he called an extra session of Congress, and with little difficulty the bill passed. Filibusters have always collapsed under the pressure of public opinion. If no other method of making known the public will can be found, senators can be elected who, it is known, will work against the filibuster. But that last resort is never had, for public opinion is sufficient restraint in itself.

Thus you see that the present situation in the Senate is not so bad as our opponents would have you believe. In the face of the good, both positive and negative, that comes from a filibuster it is folly to talk of tying the hands and sealing the mouth of our great deliberative body by such a proposal as mere majority closure that can be evoked at a moment's notice.

But, as a matter of fact, a closure rule does exist in the Senate today, and it is entirely adequate as a means of stopping debate. In 1917, upon the advice of President Woodrow Wilson, the Senate passed a ruling which provides that if sixteen members file a petition with the President of the Senate a vote on stopping debate will be called for. If two-thirds vote in favor of stopping debate, each senator will thereafter be allowed only one hour to speak on the measure, if he desires to take that much time. It is this closure rule that Mr. Dawes takes exception to—its two-thirds vote feature and its debate in hour intervals after passage. But how many times do you think that rule has been used? Only twice during its existence has such a vote been called for. Note that: only twice have sixteen senators presented their petition to stop debate. And how many senators have taken the hour time for speaking after the vote was had? Each time less than twenty-five availed themselves of the privilege. Note that: less than twenty-five have taken the allotted hour. Thus, you see that Vice-President Dawes is holding up before us a menace that does not exist and one that has never existed. He is taking the extreme point of view in order to arouse your approval of a scheme the real import of which is to make a raid upon the Constitution of our

country, as we have pointed out. His proposal is like another Trojan horse. It looks very innocent on the outside, but actually it would mean that, if accepted, we should find the legislative power utterly subordinate to the executive, and our Senate, as is the House now, would be subservient to the will of a party machine.

But we of the Negative are willing to admit that some features of the procedure of the Senate could be improved. But the closure plan is not one of them. There are certain evils, and a plan has been proposed to remedy them. This my opponents have already referred to as the Norris plan. As a preliminary statement, however, I would like to say that Vice-President Dawes has already recognized this plan as a good one. In one of his recent communications to Senator George of Arkansas, he has made the admission that this plan is a good one and that it will eradicate more than one evil in the Senate. But, in the face of this acknowledgment, he hugs his own pet proposal, probably because he knows that he has gone too far with it to abandon it now without injuring him politically in the eyes of the people.

The last speaker of the Affirmative has gone to great lengths to prejudice you against the Norris plan. He has suggested that it is impracticable as a remedy for the disease of filibustering, as he calls it. But I ask you how to eradicate a disease if you do not go to the very root of the trouble. And what is the seat of the trouble in the Senate—yes, and in the House as well—if it is not the “lame ducks” and the short sessions of Congress. Twice the Senate has passed a proposed constitutional amendment to allow the President and congressmen to take their seats on January 1 after election. But each time that proposal has been killed in the House where closure rules prevent its being threshed out on the floor. Such a step would not only eradicate the supposed evil of filibusters, but also another which we have been fighting so long—the “lame duck” evil. It is the presence of the “lame ducks” with their voting power that induces other senators to start filibusters to prevent the passage of obnoxious measures. Let public opinion be felt much sooner than at present, by having the newly-elected senators take their seats in January and there would be no danger of trying to pass objectionable measures. The second feature

of the plan is also directly aimed against the killing of time by debate. The filibuster is successful only if it is known that Congress has to close its session altogether at a certain day and hour. But with no definite end in view, the filibuster would be futile by its very nature, for it is merely a time-killing process. Thus, you see that what evils there are in the Senate procedure can be eradicated by measures far superior to Mr. Dawes' proposed majority closure rule.

Now just a word in closing. The Dawes suggestion is no new thing. Thirteen years ago Senator Pittman of Nevada came to the Senate, as did Mr. Dawes, from a tired, restless, uneasy business world. For three long years he tried to get through a reform similar to that which is being sponsored by Mr. Dawes. He failed to do so. In a recent interview reported in the *New York Times* he declared that his plan was folly, and that he is glad that the senators never took him seriously. Today he has aligned himself with those loyal American patriots, those lovers of our Constitution with its basic principles, who are actively engaged in opposing the plan of our business-man Vice-President.

AFFIRMATIVE REJOINDER

J. Edwin Tiddy, North Carolina State College

MR. CHAIRMAN, WORTHY OPPONENTS, LADIES AND GENTLEMEN: Do not put too much faith in such a man as Senator Pittman, just referred to by my honorable opponent. He changed his mind, and that is a woman's prerogative. Remember also that Mr. Pittman's opinion should not be given weight as evidence in the debate this evening, for it is merely an opinion as to the merits of the question. He hasn't heard this debate; otherwise, he might change his mind again when he considers the argument of the Affirmative.

It would seem, from a careful survey of the situation, that there are two main issues in the discussion this evening. One is the practical issue as to the merits and demerits of the filibuster. The other is the theoretical issue as to the rights of majorities and minorities. Let me give some attention to each of them, taking the last first, in Chinese fashion.

The gentlemen of the Negative have argued before you this evening that the majority vote should not be the determining

factor in deciding political matters in this country. On the contrary, we of the Affirmative have shown you that this government of ours was intended to be a democracy and that, because of its size, it has to function through the will of majorities as expressed by their representatives. What determines decisions today more than public sentiment? Public sentiment is and always has been that the majority should govern this nation. It was most emphatically not intended that the majority should rule this country, and who then is left but the majority to govern it? Our opponents have challenged us to point out a single quotation from one of the founders of our government on this point of majority versus minority rule. I am delighted to do so. James Madison, the man who wrote most of the Constitution, in Number 10 of *The Federalist*, his own party organ, speaks of the division of the people into majority and minority groups, and recognizes the right of the majority to control all factors in our political and economic order, including life, liberty, and property. He states, "The regulation of these various and interfering interests forms the principal task of modern government, and involves the spirit of faction in the necessary and ordinary operations of government. He does not say that a minority faction should frustrate the will of the majority. Thus on the issue of theory, judged in the light of the writer of the Constitution himself, the Affirmative contention that majority will should prevail stands justified.

What about actual practice? What about the actual use of filibusters by minorities—small minorities—sometimes one man? Our opponents have talked about two filibusters which, they say, were all right. Well, perhaps those two bills did need killing. But don't you realize, Worthy Opponents, that those two bills weren't the only ones that were killed by those two filibusters? What about the other measures presented to that Senate which failed even to be considered on the floor, just because the filibusters took up so much time? Are you, Gentlemen of the Negative, is any one here, prepared to say that every bill that fails because of filibustering, either directly or indirectly, is wrong? Unless the filibuster is always right on every point, both as to the bill it kills directly and the bills it kills indirectly, it is not justified in practice, for it is the mere opposition of the minority to majority rule.

There is just one other issue in the debate this evening. It grows out of a comparison of the so-called Norris plan with the Dawes' suggestion. Bear this in mind, Ladies and Gentlemen, the Negative has presented the Norris plan as an alternative to the Dawes plan. This is in itself a recognition by them of the evils which do exist in the Senate, else they would not present a plan to correct the evils. Think, then, of their inconsistency. In one breath the last speaker of the Negative says that the filibuster is a good thing, and in the next breath he presents a plan to do away with it because it is an evil thing. Inconsistent—as inconsistent as the crab, who goes forward by going backward. So, our opponents, too, present a plan this evening. But what about it? You yourselves admit that it would require a constitutional amendment to put it into operation. It is very evident that it would take considerable time to effect such a radical change. What are you going to do about the evil of Senate procedure in the meantime? Do you propose to solemnly sit and twiddle your thumbs? The Dawes' suggestion would only require a vote of the Senate itself to become effective, and it would immediately kill the evil filibustering. The Norris plan would require a constitutional amendment—let's see, it would be Number 20 or 21 or 30, perhaps. Haven't we enough constitutional amendments now, with the trouble they cause? You see at a glance which plan is the more practicable and the more likely of attainment—Dawes' or Norris', the one we propose or the one the Negative proposes. But what about their plan itself. Is it so good in itself, after all? Congress is not to have a fixed time for closing the session. Well, suppose that one Congress hasn't ended at the time the other is supposed to start. What about that? If a filibuster can continue for thirty days, what's to prevent its continuance for sixty days, or ninety days, or a year? Filibustering would still be possible, even if we put through the umpty-umph amendment to the Constitution and got it. It would be absurd to hold the Senate in session the whole year round, which would be a possibility under their plan, when the evil can be directly and simply avoided by adopting the sure plan suggested by Vice-President Dawes.

The question, therefore, Ladies and Gentlemen, narrows itself down to this. What kind of government do we want? If

the majority is to rule this nation, if the people as a whole are to determine the questions of political procedure as it was always intended they should, the present Senate rules as regards closing of debates must be changed. It has been proved and admitted by the opposition that a very serious evil does exist in the Senate in the form of filibustering. You have the simplicity and the sureness of the Dawes plan as compared with the complicated and inefficient Norris plan which would take a long, long time to become effective. We of the Affirmative stand for the principles of democracy, the original principles of the United States. We have given you the facts to the best of our knowledge, and it now lies with you, as citizens of the United States, to say whether you will let one or two self-centered politicians run the Senate or have the ideals of our democracy prevail.

THE CHAIRMAN: I feel sure that the audience this evening has been very patient. You have listened silently to the many words that have poured from this platform, so many that it must have seemed as if there were a Niagara up here. You have probably been swayed back and forth, as first the Affirmative and then the Negative has assaulted your ears and minds. I sincerely hope that no one has permanently lost his balance, as I did once when I was standing on the edge of a mud-puddle. Not to intimate for a moment that this debate is like a puddle of mud. It is a little bit clearer than that, I'm sure. Well, your chance has now come. You have the privilege of putting questions to these speakers here on the platform—that is, to everybody except the chairman. He refuses to be questioned, as he acknowledges frankly that he doesn't know a thing about the subject. The speakers don't *acknowledge* that. They are ready to share their wisdom with you.

FLOOR: I did not quite understand the reference made to the English system by the Negative. Will one of the speakers on that side kindly explain what he meant more definitely?

MR. WILSON: As I was the one who introduced that argument, let me answer the gentleman's question. England has a form of government that responds readily to the will of the majority of the people. Frequent elections are held whenever the Premier and his party lose out on a vote in the House of Commons—in other words, it is soon found out which way the

majority wants to go. A government, as it is called, can keep in power only so long as they have the will of the majority back of them. Thus there is no danger of a dictatorial rule by a small clique. But in this country we elect our President on his party ticket for a definite term of four years. If it were not for the right of the minority to debate on the floor, the party thus put in power might put through measure after measure against the public good, yet they could not be thrown out for four long years. We contended, therefore, if you are to have mere majority rule in the Senate that you ought to have the same kind of system that England has to make it perfect, to prevent the tyranny of the majority party. But we don't have that, and we don't want it. Therefore, we'd better not take the Dawes' proposal for mere majority cloture.

FLOOR: But didn't you speak of the English system as the perfect system?

MR. WILSON: You didn't quite understand me. I said that, in order to make such a scheme as majority cloture perfect, we ought to have the English system.

FLOOR: I think that the Affirmative have taken too strong exception to the idea of two-thirds' majority rule. Don't we have to have two-thirds in order to ratify a treaty?

MR. JOHNSON: Yes, quite so. But there is quite a good deal of difference between the ratification of a treaty and the stopping of debate. Ratifying a treaty is a major act of the Senate; it is fixed in the Constitution itself. Stopping debate is a mere form of parliamentary procedure. In every important deliberative assembly in the world, except the United States Senate, there is majority cloture. It is the usual thing.

CHAIRMAN: Are there any more questions?

FLOOR: What effect would the Dawes' proposal have on party government?

MR. WILSON: The Dawes' proposal, if enacted, would strengthen party government, because it would be possible for the party in power, by means of a bare majority, to call for a vote on any bill under discussion. As a result, many a bill would fail simply because the merits of the bill had not been explained to the Senate. Also, it is true that undesirable bills would sometimes pass just because they were party measures, which could not be effectively opposed on the floor by those

who were in a position to give the facts to the senators who might be neutral and, in turn, let those facts be known to the public. The following of Dawes' plan would result in a large part of the legislation being handled through committees behind closed doors. These committees are usually the tools of party machines, since the majority party always has a majority on each committee. Thus, the Dawes' proposal would give a dangerously free rein to the party in power.

FLOOR: Why would it necessarily be an evil thing for the legislation to be first handled by committees before being brought to the Senate? That is done today, is it not?

MR. WILSON: In answering this question I should like to quote from Bliss's *Encyclopedia of Social Reform*. Referring to these committees, we find this statement on page 274: "These committees usually sit in secret. They ordinarily give a public hearing to the friends and the opponents of a measure, but the final voting of the committee is in secret. This gives the utmost opportunity for corruption and for underhand influence." You see, these committees have chairmen and majorities chosen from the party in power. An influential party leader could easily control the votes of so few men, and as a result it would be a party bill almost exclusively. This is certainly not in keeping with the ideals of American government, which, as my opponent has quoted you from Lincoln, is a government "of the people, by the people, and for the people."

FLOOR: What effect would this plan of Vice-President Dawes have upon the two great parties represented in the Senate?

MR. HESTER: The change in Senate rules would practically destroy the influence of the minority party. Mr. Dawes is advocating a 51 per cent closure rule. Under his plan the measures introduced for personal and party politics just before the adjournment of Congress every year would always pass, and even though the minority did represent public opinion, as in the case of the ship subsidy bill, they could never hope to block these measures. The minority has never made a law for the people, and it never shall; yet it is your one source of protection from impulsive, impure, and immature laws.

FLOOR: I'd like to hear what the Affirmative have to say on this point.

MR. JOHNSON: I regret to say it, but the gentlemen of the

Negative are misleading you somewhat. They have tried all through this debate to give you the impression that the rights of the minority will not be respected if the Dawes suggestion is adopted. That is not so. There would still be ample opportunity for a real debate on any measure, with the minority allowed plenty of time to state their views. That is not what Mr. Dawes is against, nor are we. But we are against this eternal wasting of time by reading of poetry, and talking about anything under the sun except the point at issue. It is the minority right to be heard, and what would happen in this country if a President did come along and try to be a dictator? You know as well as I do that he wouldn't last very long. Our opponents are trying to make a mountain out of a molehill. Minority rights will be respected as they are in every deliberative assembly in the world where there are majority cloture rules. But what we want to abolish is this minority trampling on the rights of the majority by the tomfoolery of endless, pointless discussion and wrangling and debate. The minority does have rights, yes, and they'll continue to have them under a majority cloture. But the majority have some rights, too. And these rights are disregarded time and time again under the present system. Yes, they can close debate by two-thirds' vote, but think how cumbersome a process it is. Our opponents spoke of how few times it had been invoked. Well, that is just because it is a great, lumbering, clumsy piece of machinery that nobody wants to try to handle.

FLOOR: Is the Dawes proposal being opposed by those senators who fear a loss of their power?

MR. HESTER: This accusation has been made, but quite unjustly. In the first place, we have every section of the country represented, and also both of the great political parties. For example, Senator Jones of New Mexico, Senator Norris of Nebraska, Senator Robinson of Arkansas, Senator Copeland of New York, Senator McKellar of Tennessee, and our own representative, the Honorable F. M. Simmons—all these men, members of both parties, are against the Dawes' measure. Doesn't it seem unreasonable to doubt the integrity of these recognized leaders? Evidently the senators of Mr. Dawes' own party are satisfied with things as they are, or they would get together, follow his lead, and pass his proposal by majority vote. That's

all that's necessary to amend the rule; but the Republicans themselves don't want it amended.

FLOOR: Can you prove that no bill has ever been permanently killed by a filibuster that the people actually wanted?

MR. HESTER: I believe that I can, if the chairman will permit me to speak so much. The bill that caused Mr. Dawes to think about his plan was probably the Muscle Shoals bill last year. But even the Affirmative will admit that none of the senators were convinced as to what disposition to make of this property. Thus no serious handicap was caused by the delay which resulted from the filibuster. The bill will probably be brought up again this year. But let us go deeper into the matter. In 1891 the Force bill was introduced into Congress, but defeated by a filibuster. The Republicans who were sponsoring that bill then came into power for the next sixteen years without an interruption, but they never tried to pass that bill. In 1893 the repeal of the silver purchase act was called. Now this bill was blocked by a small minority, but the President exercised his power and called an extra session of Congress. With little delay the bill was passed. These two measures show that filibusters collapse under the pressure of public opinion.

CHAIRMAN: As it is already past the time set for closing this discussion, let us now proceed to vote on the question. Remember that you are to vote your own convictions regarding the subject which you have heard discussed. All those who believe that the rules of the United States Senate should be changed as suggested by Vice-President Dawes please indicate by raising your hands. A total of one hundred and fifty-one vote in favor of the side upheld by the Affirmative. Those who do not believe that the Senate rules should be so amended, please raise your hands. The Negative vote is one hundred and eighty-six. The house, then, believes that the Senate rules should not be amended in accordance with Mr. Dawes' suggestion. We stand adjourned.

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CHAPTER II

GOVERNMENT COMMISSION FOR REGULATION OF THE COAL INDUSTRY

SOUTHERN METHODIST UNIVERSITY *versus* EMORY UNIVERSITY

RESOLVED: *That the United States government should create a commission empowered to supervise and control the coal industries engaged in interstate commerce.*

This is the report of a debate between an Affirmative team representing Southern Methodist University and a Negative team representing Emory University, held at Emory University, April 16, 1926. The decision of the judges was unanimous for the Affirmative. The report including briefs and partial bibliography, was secured thru Professor Nolan A. Goodyear, Faculty Chairman of the Intercollegiate Debate Council of Emory University.

BRIEF

GOVERNMENT COMMISSION FOR REGULATION OF THE COAL INDUSTRY

AFFIRMATIVE

INTRODUCTION:

- A. The question is important.
 - I. So great was the need of a change in methods of regulation, that in 1922 Congress established the United States Coal Commission, with powers to investigate the coal situation.
- B. The problems involved in the debate are
 - I. No change is needed unless the present organization is not functioning properly.
 - 2. The coal industry is not functioning properly.
 - a. As indications of its failure, there have been
 - (1) Interrupted service; scarcity; high prices.
 - (2) Five serious shortages of coal in the past eight years.
 - b. Grave dissatisfaction exists on the part of the public, as a result of its failure.
 - (1) Ten measures bearing on investigations in the coal industry, were brought up before Congress from 1917 to 1923.
 - (2) Mr. Herbert Hoover has said
 - (a) "The coal industry is the worst functioning industry in the country."
 - 3. The problem is that of an unserviceable industry that needs to be controlled for the public welfare.
- I. There are defects in the coal industry as it is now organized, that render it economically unsound and that make a change necessary.
 - A. Overdevelopment.
 - I. Nature of overdevelopment.

- a. There is overexpansion due to the wealth of coal and more mines are operated than the country requires.
- b. Yet no excess amount of coal is actually produced.
- c. This overdevelopment affects only bituminous coal directly, but anthracite indirectly.

2. Evidences and effects of overdevelopment.

- a. The excessive productive capacity of the mines is more than one-third of actual production.
- b. The mines are operated irregularly.
 - (1) The working average is two hundred and fifteen out of three hundred and eight working days per year.
- c. Coal has increased greatly in cost.
 - (1) The cost is increased 25 per cent by irregular operation because the cost of coal varies with the length of the working period.
 - (2) This increased cost is due to overhead expenses which continue during the idle period.
 - (3) This increased cost effects a burden on the consumer.
- d. Labor difficulties are numerous.
 - (1) The mines are overmanned.
 - (2) There is great economic waste due to the surplus number of miners.
 - (3) Social maladjustments result.
 - (a) Suffering and discontent.
 - (b) High wage rates.
 - (c) Labor troubles.

B. Wasteful operating policy.

- I. Operators work only the richest veins and leave much coal in the ground.
- a. Under private control, the operators must be concerned with prolonging their own existence.
- b. The waste is extensive.
 - (1) More than one-third of both anthracite and bituminous coal is not recovered.

- (2) The loss for 1921 in bituminous coal amounted to one hundred and ninety-six million tons; one hundred and ten millions of that was avoidable.
- (3) The importance of this waste lies in the exhaustible character of coal.
 - (a) It is a natural resource, unlike cotton, wheat and corn.
- C. The coal mined passes thru the hands of an excessive number of middlemen, causing wasteful duplication of effort and increased costs through pyramiding of profits.
 - 1. Much of the coal goes through two, three, and four hands between the mine and retailer.
 - a. Profits made by these middlemen are excessive.
 - 2. Coal increases in cost from \$6.00 per ton at mine to \$12.00 and \$15.00 per ton to the consumer.
- II. Government control is the only logical and feasible solution of the problem.
 - A. Unrestricted competition is not the solution.
 - 1. It has brought about the present situation.
 - B. The states' cannot offer the solution.
 - 1. State control is limited to intrastate commerce.
 - 2. Court decisions hold that coal, for mines doing an interstate business, is an article of interstate commerce.
 - 3. The national government alone has the power to control interstate commerce.
 - C. Control by the national government is the logical and feasible remedy.
 - 1. The coal industry, in nature, is a public service.
 - D. The service is national in character; deals in an exhaustible natural resource; and is essential to the industrial and domestic welfare of the entire people.
- III. The Affirmative advocate government control thru the establishment of a commission charged with the duties of fact-finding, licensing, and reporting violations of existing laws to the Department of Justice.

A. It would remedy the evils of

1. Overdevelopment.
 - a. The commission could refuse to license new mines for a period of five years.
 - b. Mines on public lands could be closed to further development.
 - c. Operators could be protected against loss by their sinking funds.
 - d. The surplus labor could be absorbed gradually into our industrial system by extending the period of readjustment over five years.
2. Distribution.
 - a. To eliminate the excessive number of middlemen, the commission could extend the licensing system to include wholesalers and retailers.
3. Labor difficulties.
 - a. Steady employment can be provided.
 - (1) Operators have few labor troubles when employment is steady.
 - (2) It enables miners to work at a cheaper rate and still earn more.
 - (3) It reduces overhead expense and the cost of coal to the consumer.

B. The plan is American in principle.

1. It is in line with recent tendencies in our government.
2. There is precedent for the licensing system.
 - a. Drug stores are licensed to sell opiates and alcohol.
 - b. Meat packing plants are regulated by a system of licensing and inspection.
 - c. Stock dealers must have a license before they can ship stock from one district to another.
3. When an industry is vital to the well-being of a nation the logical agency to run that industry is the Federal government.

NEGATIVE

The United States should not establish a commission empowered to supervise and control coal industries engaged in interstate commerce.

- I. This means in effect, "government ownership."
 - A. It is no mild and edgeless interference in the coal industry.
 - B. The one line of distinction between the proposed control and ownership is that under the proposed plan the profits would go to the industry.
- II. The evils of the present system have been liberally exaggerated.
 - A. The public is interested in securing coal in sufficient quantities and at reasonable prices.
 1. The problem of supply is not now a vital one.
 2. We have the cheapest coal in the world.
- III. The problems of the coal industry are being met and solved.
 - A. The present methods of Federal supervision are satisfactory.
 1. The Bureau of Mines, the Geological Survey, the Interstate Commerce Commission, etc., are aiding in the solution of the problems of the coal industry.
 - B. Economic laws are operating to the advantage of the coal industry in the solution of its problems.
- IV. Federal control is opposed by those upon whom it must depend for its success.
 - A. The leaders of the industry oppose Federal regulation.
 - B. President Coolidge in his message to Congress, December, 1923, stated his opposition to Federal regulation.
- V. There is no "public interest" in coal, according to the United States Supreme Court in the Kansas Industrial Court Case.
 - A. The public is concerned, however, in getting coal at reasonable prices and in sufficient quantities.

1. Price is of no concern, for we have the cheapest coal in the world.
2. "Continuous supply" has been prevented by strikes and transportation difficulties.
 - a. Government commissions are impotent to deal with the strike problem.
 - (1) The Railway Labor Board failed in this regard.
 - b. Transportation is now under adequate government regulation under the Interstate Commerce Commission.

IV. Federal regulation is marked by inefficient administration and increased cost.

- A. Past business ventures of the government have been costly.
 1. Muscle Shoals cost \$106,000,000 but is now worth only \$8,000,000.
 2. The Railroad Administration operated under an enormous deficit.
 3. The United States Shipping Board represented an annual loss of \$50,000,000.

VII. Federal control is unconstitutional.

- A. The United States Supreme Court in the Pennsylvania Anthracite Tax Case held Federal regulation unconstitutional.

VIII. The proposed system would be an unwarranted restriction upon the powers of the sovereign state.

- A. To allow Congress power over coal before it is placed in interstate commerce would grant the Federal government the right to reach out and exercise control over any or all industries.
- B. The plan of the Affirmative is part of a dangerous socialistic and bureaucratic movement.
 - I. It is proposed that the Federal Government shall regulate every phase of individual life.

- a. Birth.
- b. Education.
- c. Child labor.
- d. Adult labor.
- e. Marriage and divorce.
- f. Income.

GOVERNMENT COMMISSION FOR REGULATION OF THE COAL INDUSTRY

SOUTHERN METHODIST UNIVERSITY

versus

EMORY UNIVERSITY

FIRST AFFIRMATIVE

Charles M. Crowe, Southern Methodist University

Before entering upon the discussion of the evening, we of the Affirmative bring greetings to the students, faculty, and friends of Emory from her sister institution in the west. We feel highly privileged to have the opportunity of considering with our friends, the gentlemen of the Negative, the salient features of the subject that has been announced. It is a question of paramount importance. Its ramifications affect many phases of our national life with far reaching consequences. So important is it, and so great is the need for a change, that Congress in 1922 established the United States Coal Commission, with powers to investigate the coal situation. This commission instituted the most exhaustive and comprehensive survey of an industry ever undertaken in history. Its findings and recommendations serve to clarify the issues involved and to show clearly the desirability and practicability of reasonable government control of the coal industry.

Let us first consider briefly the problem involved in the debate of the evening. The most significant pronouncement of this commission was that the "coal industry, dealing as it does with a necessity, is charged with a public interest." If, now, this public service function is being performed properly, and if satisfaction and service are being rendered to all parties concerned, miner, operator, and public, under the present arrangement, it would be unwise and uncalled for to advocate a change in the governing policy of any kind. But the coal industry in

America is not functioning properly. Rather, interrupted service, scarcity, and high prices, which are abnormal, unnatural conditions, have obtained as the regular order of things in the coal industry in America during the past twenty-five years. For example, in spite of the wealth of coal resources in America, there have been during the past eight years five periods when shortage in the supply of coal, with accompanying high prices, has become so acute as to be of national concern and to affect directly the welfare of the American people. Such conditions show that the industry is in a chaotic state and that there is need of regulation of some kind. Their continued persistence has caused an enormous amount of intense dissatisfaction in the public at large. The extent of this may be gauged by the fact that there were ten different measures relating to the coal situation to pass before Congress from 1917 to 1923. This generally disrupted condition in coal has led Mr. Herbert Hoover to give judgment that the coal industry is the "worst functioning industry in the country." Our problem then, is an unserviceable industry that needs to be controlled for the public welfare.

It shall be my duty, therefore, first, to show the evils inherent in the present system that render it unserviceable and that make a change imperative; and second, to show that government control is the only logical and feasible solution of the problem. My colleague will show first, that government control by a commission will be efficient and practicable because it will remedy the defects of the present system; and second, that it is thoroughly American in principle.

The coal industry under private control is economically unsound, first, because of overdevelopment in the bituminous industry. The great wealth of bituminous coal invites overexpansion, and, without regulation, there are more mines in operation than the needs of the country require. Overdevelopment does not mean overproduction, for there is no excess amount of coal actually produced. Overdevelopment affects anthracite as well as bituminous, for anthracite is in competition with bituminous and conditions in one are influenced by conditions in the other. The United States Coal Commission found the productive capacity of the bituminous industry to be eight hundred million tons annually, while average consumption is only four hundred and fifty or five hundred million tons annually.

This shows a potential excess capacity of about three hundred and fifty million tons annually, or an overdevelopment of practically 50 per cent. The situation simply means that the mines cannot work full time, and we have the anomalous spectacle of one of America's greatest industries working an average of only two hundred and fifteen days annually out of a possible three hundred and eight working days, or about three days per week. Since the cost of producing coal "varies with the steadiness at which the mine is operated," it is clear that every day the mine is idle, the cost of producing the coal is increased. This increased cost, averaging 25 per cent, is largely due to the fact that overhead expenses, which are unusually heavy in mining, go on whether the mine is being operated or not. These expenses include costs of upkeep such as timbering, roofing, drainage, and ventilation; also salaries of officers, engineers, superintendents, clerks, and lawyers; as well as such general expenses as interest, depreciation, taxes, and insurance. In brief, men, mines, and equipment are idle for about one-third of the year. And, as both capital and labor must be supported the entire year, the public meets the bill.

Furthermore, not only does overdevelopment mean irregular operation with increased cost, but it means also that there are too many miners. The commission estimated the coal industry to be overmanned to the extent of two hundred thousand men. Short working time is the result. Looked at from a purely economic standpoint, taking the average daily wage to be \$6.50, we get an idea of the enormous economic waste, which becomes a burden to the consumer, that exists in an industry that has and supports two hundred thousand workers and their families more than it normally needs. Looked at from a social standpoint, we see that we have a situation bound to breed suffering, discontent and labor difficulties. In fact, the special investigators of the United States Coal Commission found that there was no labor trouble—in itself a formidable cause of unserviceableness—when the miners were working full time. But as it is, when the miner works three days per week instead of six, he not only has to have high wages for the time he does work, but he becomes restless and easily aggravated during his idle period.

The commission was positive in its statement that, "this

condition of overdevelopment in mines and of surplus number of miners is a fundamental, underlying cause of the instability of the industry." Until it is removed, there can be no hope of lasting peace. Its vital significance is due to the fact that coal, unlike cotton, corn, and wheat is an exhaustible natural resource. Overdevelopment is responsible, as we have seen, for increased production costs; for unemployment and intermittent employment; and for labor troubles. It ultimately results in a tremendous burden to the consumer.

A second wasteful defect of private control in both anthracite and bituminous mines that is economically unsound is the established policy of the operators of taking out only "the cream" of the coal, of working only those veins which are the largest and most easily accessible, and not working those clean. In short, there is no long time policy employed that conserves this natural resource against a time of inevitable exhaustion. It is quite true, of course, that only a small portion of the coal has been removed to date and that there are vast reserves yet under the ground. It is true also that the waste is not wilful because the operator is hard-pressed to exist at all in the face of intense competition. He cannot, as the industry is now organized, be expected to assume a public interest in conservation at the risk of bankruptcy. This waste, therefore, is inevitable under private control. But these qualifying factors do not minimize the bare fact of stupendous waste from this cause and are no excuse for its existence. The commission reported to Congress that more than one-third of both anthracite and bituminous coal in mines that are worked is not recovered. In 1921 this bituminous loss amounted to one hundred and ninety-six million tons, one hundred and ten millions of which was avoidable waste. This coal cannot be replaced. Unlike cotton, wheat, and corn, once a ton of coal is mined it is gone forever, and another ton can never grow in its place. An industry, Honorable Judges, dealing in an exhaustible natural resource, that permits the avoidable waste of one hundred and ten millions of tons of coal in one year, cannot be said to be operating on a sound economic basis.

The third defect of the present system, applicable alike to anthracite and bituminous, is the excessive number of middlemen between the mine and the retailer which causes wasteful

duplication of effort and increased price through pyramiding profits. The Coal Commission in tracing eight hundred and two cars back to the mine, found that great part of the coal passed through two, three, and four wholesalers before reaching the retailer. Each one of these, although with little invested capital, merely buying and selling car numbers and weights, extracted his profit, which averaged \$2.50 per ton, or 40 per cent of the investment. In other words, coal costing \$6.00 per ton at the mine, is sold to the consumer for \$12.00 and \$15.00 per ton. This condition is inevitable under private control because the wholesaler may be depended upon to extract all the profit the traffic will stand.

Up to this point we have examined the evils inherent in the present system that are responsible for its breakdown and that show a change is necessary. It will be my purpose now to show that national control is the only logical and feasible solution of the problem.

We have the problem before us: an industry, dealing in an exhaustible natural resource, unserviceable because of certain long-standing and well-recognized defects inherent in its present organization. A solution of the problem is demanded for the public welfare.

The solution cannot lie with unrestricted competition because that is what has brought about the present situation. This, as we shall see, is not a private affair to be settled by individuals.

Neither is the state able to offer the solution. The states can control only intrastate commerce. But, according to the decision of the United States Supreme Court in the Pennsylvania anthracite tax case in 1922, coal is generally, and for those companies doing interstate business, an article of interstate commerce, and hence subject to regulation only by the Federal government, according to the provisions of the Constitution.

The most logical and feasible solution of the problem, therefore, is to be found in government control. The fundamental function of government is to regulate affairs that affect the public welfare. The coal industry is of such a nature. Coal, contrary to the popular notion, is not a commodity, like manufactured goods or farm products to be sold as individuals in free competition may desire. It is a service; a service dealing in a natural resource that once removed cannot be replaced;

a service essential to the public welfare. This is a basic principle made clear by the Coal Commission. The commission declared that "coal, like money, banking credit, and transportation service; like water power; like such public services as electric lighting, telephones, and street railways—is altogether too important in the industrial and commercial life of the nation and to our domestic comfort to be made the sport of speculative finance, the convenient instrument of secret intrigue and private manipulation." Coal, therefore, is an essential national public service industry dealing in an exhaustible natural resource, and as such must be and can be regulated only by the Federal government.

In conclusion, Honorable Judges, we have seen, first, that regulation of some kind is imperative because the coal industry, due to certain defects inherent in private control, namely, over-development, wasteful operating policy, and too many middlemen, is not rendering a reasonable service to the people. Second, this regulation must be by the national government because state control of interstate business is unconstitutional, and because the nature of the industry as an essential public service dealing in an exhaustible natural resource makes supervision by the Federal government alone possible. My colleague will show that government control by a commission will remedy the defects in the industry, and that it is thoroughly American in principle.

FIRST NEGATIVE

Glenn W. Rainey, Emory University

MR. CHAIRMAN, HONORABLE JUDGES, WORTHY OPPONENTS, LADIES AND GENTLEMEN: As the first speaker of the Negative there falls to my lot the very great privilege of welcoming to the Emory campus the gentlemen from Texas. The debates between the Southern Methodist University and Emory have been annual events for some time now past, and we trust that this pleasant meeting will serve as one more link in a chain of engagements extending into the indefinite future. In behalf of the Emory debate squad, as well as of the entire student body and faculty, I welcome you to our campus. We trust that your visit to Emory and to Atlanta will be a most enjoyable one, and that you will see fit to bear back to your home institution

the highest regards and best wishes from the friends you have made among us.

And now, Sir, we turn our attention to the question at issue.

At the very outset of our discussion as to whether or not the United States should adopt the plan presented by the Affirmative of establishing a Federal commission to supervise and control coal industries engaged in interstate commerce, we of the Negative wish to call attention to a very salient and very significant aspect of the proposed plan. This is the extremely drastic nature of the change involved. We call attention to the fact that the words "supervise and control" mean no mild and edgeless interference of government authority in times of crisis when perhaps it is really needed, but rather the taking over of the entire coal industry by the central government. They mean, in effect, government ownership of coal, the one line of distinction being that the profits, if any, would go to private owners and operators. They mean the departure of the nation from its long-held policy of allowing business industries to pursue an unrestricted course insofar as possible, and the display of a dangerous tendency toward socialism. They mean the adoption of a course of action which, wherever in the past it has been tried, has proved a miserably undeniable failure.

In making, however, so violent an indictment against Federal control in general, and control of coal in particular, we would not be understood to condemn in its entirety the field of government aid and restriction in industry. We believe, for example that the United States Bureau of Mines is serving a worthwhile purpose in assuring wherever necessary the safety of miners and in performing its other recognized functions; we believe that the Interstate Commerce Commission is entirely justified in exercising its control over distribution of coal cars when need of any such supervision arises. But we do feel that it is a plan foolish if not catastrophic to advocate the entire elimination of private enterprise in pursuit of the will-o-the-wisp socialism. In other words we draw the very sharpest distinction between the national policy of aiding and abetting the development of private industry, by the use of certain minor though important restrictions and the contrasted policy of complete domination even to the point of ownership by the government of the country's enterprises. The former course we heart-

ily favor; the latter we refuse even to condone, and as we recognize the advantages of the present interest exhibited by the government in business, so we shall attempt to show that any further encroachment on private ground is undesirable and hazardous.

It shall be my purpose at this stage, Sir, to produce evidence to the effect that there is no need for national intervention inasmuch as the evils of the present situation have been liberally overexaggerated and inasmuch as the problems that confront the industry are of so diverse a nature as to require local rather than national control; and further that the ideas of central control is unpopular not only with the leaders of the coal industry but even with the present heads of the American government.

Perhaps the most thorough-going proof of the fact that the American coal industries have been and are giving satisfactory if not admirable service may be found in the following statement from the May, 1925 issue of the *Quarterly Journal of Economics*. It reads as follows:

As far back as the government records extend, over forty years, the American people with the exception of one period of two months have bought coal at a cheaper price than any other coal-consuming people in the world.

To this convincingly potent statement might be added further evidence to establish the fact that the present industrial and economic supremacy of America is due to an immeasurable extent to our supply of reasonably priced and abundant fuel. Today throughout the country there may be secured without inconvenience or delay coal of any desired quality or type at a cheap price. Indeed the final proof of the satisfactory condition of the nation's coal industries lies in the very complaint of busy-body fact finding individuals and commissions, who in their delving researches and from their piles of musty figures, allege certain imperfections in the industry, make sweeping pleas for reform, and then when they are rebuffed by the American Congress and the public at large complain that the people know nothing of the evils of coal, and demand publication of data to educate the nation. Even they themselves apparently do not realize that there is already an organization, namely the Bureau of Coal Economics of the National Coal Association, burdened with the task of laying the facts of coal before the nation.

Does the apparent neglect on the part of the people of this opportunity to find out the truth about coal lead us to believe that the fuel issue is a vital one today; or are we not rather led to the conclusion that the people are satisfied with the present situation and prefer to disregard the efforts made by socialistic reformers to change the present status and to refuse to worry their collective mind about coal so long as it may continue to be available at satisfactory prices and in satisfactory quantities?

And now to the conviction that the industry is functioning so satisfactorily as to warrant no interference, we would add evidence to the effect that such problems as exist and as require any further government regulation are so diverse and so localized as to prohibit any satisfactory management by a central authority. In this connection it must be realized that the coal industry of today is one of a mighty scope. Contributing to its composition are some eight hundred and fifty thousand miners, union and non-union, white, black and yellow; many thousands of operators, organized and unorganized, large and small; and even more mines and owners; a horde of merchants, retail and wholesale; and at the basis of the structure the American public. The industry in its various phases extends over the entire nation, and each unit in the system has its specific problem which must be solved by the local authorities. A certain amount of regulatory legislation dealing with the industry has proved and may continue to prove beneficial; but for a government which has made so defenseless a failure of its business ventures in the past to attempt so stupendous a task as it would be faced with in supervising and controlling the coal industries is hopeless and farcical.

And now, Sir, when we have seen the drastic change involved in the plan advocated by the proponents of government supervision and control; when the stand taken by the Negative this evening in regard to present policies of government aid and restriction in industry is clear; when we have proof that the coal industry of the nation is functioning so satisfactorily as to warrant no government intervention, and that the existing problems are of such a nature as to defy control of the industry by a central authority; we come finally to the consideration of the attitude of the leaders in the coal industry and the heads of the national government toward the plan. Evidence of this latter is given by the following statements:

The attitude of the coal industry is expressed by Harry L. Gandy of the National Coal Association as follows:

The single request of the bituminous industry is to be left alone. There is cause for congratulation by the American public that within the ranks of the industry are constructive minds, who, with their investment at stake are working intelligently and diligently along sound economic lines, with the welfare of the entire industry and of the public as their objectives. Excessive overdevelopment caused by the abnormal demands of war has been a difficult hurdle in the path of progress. Have faith in the men who have their all in the balance, and do not invite additional hurdles in the form of well-meaning but economically unsound programs or the dreams of the unattainable.

Mr. Coolidge in his message to Congress December, 1923, made clear his views of government control of coal in these words:

I do not favor government ownership or operation of coal mines. The thing is for action under private ownership that will secure greater continuity of production and greater public protection. The Federal government probably has no peace time authority to regulate wages, prices, or profits in coal at the mines or among dealers.

In a defense of the President's stand in regard especially to the problem of anthracite we find the statement made in the November, 1925, issue of *Current History* that "commissions are inane things which temporarily relieve the minds of the people." There is also this statement with which I close:

I think the Federal government has done well to refrain from interference, and I thank God we have a President who thinks that governmental operation is the worst thing possible for the solution of a problem like the present one.

SECOND AFFIRMATIVE

Horace M. Lewis, Southern Methodist University

MR. CHAIRMAN, HONORABLE JUDGES, LADIES AND GENTLEMEN: Probably no question has enjoyed greater publicity within recent years than the coal question. Senator Borah has said "It is the ever recurring subject of national concern." Coal is one of our three most important industries. It touches every life. Each person in the United States consumes annually, in various forms, between four and five tons of coal. When we come to the

coal question, then, we meet on a common ground. In discussing the proposition, "Resolved, that the United States government should create a commission empowered to supervise and control the coal industries engaged in interstate commerce," my colleague has presented two points:

1. The evils of the present system demand a change.
 - (1) Overdevelopment causes increased production costs and labor difficulties.
 - (2) The wasteful operating policy makes conservation of this natural resource impossible.
 - (3) The excessive number of wholesalers causes wasteful duplication of effort and increased costs.
2. Government control is the only feasible and logical remedy.
 - (1) Private control has failed.
 - (2) State control is unconstitutional.
 - (3) The nature of the business demands it.

I shall show, first, that the plan which we advocate is practicable and, second, that it is American in principle.

It is evident from recent developments that the coal industry is in a bad condition. Some plan is needed whereby it can be stabilized. According to the findings of the Coal Commission, the chief cause of the instability, especially in the bituminous industry, is overdevelopment. If overdevelopment is the cause, then the remedy must remove the cause without violating the rights of private management, capital or labor.

Price fixing, aside from the fact that it is unconstitutional, would not remedy the evils because it has to do with distribution which the Interstate Commerce Commission controls by regulating rates and allotment of cars. Government ownership or nationalization is not in accord with American ideals and business policies and is, therefore, not to be considered.

Our plan is this: the establishment of a commission whose duties shall be fact-finding and licensing. You will recall, Honorable Judges, that this is the first and second recommendations of the Coal Commission. It would be the duty of the commission to gather facts, as well as bring the present data, gathered by the temporary Coal Commission, up to date. It would report violations of existing laws, such as the anti-trust

laws and rulings of the Interstate Commerce Commission, to the Department of Justice. That department would act as it saw fit. Since there is no overdevelopment in the anthracite industry but only evils of distribution, the fact-finding powers of the commission would apply especially to that industry.

In order to remedy the overdeveloped condition of the bituminous industry, the second feature of the plan would apply—a system of licensing whereby each coal mine would be operated under a government license. This would place the mines under government control. The question of the working out of the plan is one of detail and would be solved by the commission. Any detailed plan that we might present would be only suggestive, therefore not binding on the commission. We are advocating the principle of government control and not the details of a plan.

How would the plan remedy overproduction? It could be done by refusing to license any new mines for a period of five years. Since, as Mr. Devine states, the death rate of old mines is four hundred and fifty annually and the average capacity of each mine is eighty thousand tons, within five years one hundred and eighty million tons of our excess of three hundred million tons capacity, would be taken care of. Add to that the one hundred million tons storage capacity already in existence and we have cared for two hundred and eighty million of the three hundred million tons excess. Only twenty million surplus would remain to care for fluctuation in demand.

The question arises, how would the plan prevent the opening of new mines? According to an editorial in the *New York Times*, June 5, 1921, one-half of our coal reserves underlie government land. One-half of the new mines opened within recent years have been on government land. These lands could be closed to further development by order of the Secretary of Interior. The question of individual development then arises. Remember, Honorable Judges, existing mines would not be molested, only the opening of new mines would be prohibited for a period of five years. That would raise the question of equipment and labor. The Coal Commission found that the average life of a mine is twenty years. They also found that it is the practice of the operators to create a sinking fund which grows during the life of the mine. When the mine is

worked out or dies the sinking fund has repaid the operator for his original investment. So the operator would not suffer loss. But what about the miners? By extending the period of readjustment over a period of five years only one-fifth of our extra miners would be out of a job each year. These could be absorbed by our industrial system.

We have stated our plan and have shown that through its operation the capacity of our coal mines would be gradually reduced during a period of five years. At the end of the period supply and demand would be about equal. Then as old mines were worked out new ones could be licensed. This would insure a stable industry.

I have shown wherein the plan would remedy overdevelopment. Would it remedy distribution? I think so. The evils of distribution would tend to remedy themselves when the evils of production were remedied. In order to eliminate the excessive number of middlemen and to prohibit the unjust profits from such cause, the commission could extend the licensing system to include wholesalers and retailers.

By working steadily the miners could mine coal at a cheaper rate per ton and still make more money. Also labor troubles would be eliminated. As a mine official said to the Coal Commission, "we have no trouble with the miners when they have steady employment." By eliminating idleness, the operator's overhead expense would be less per ton and coal could be produced cheaper. As a result the consumer would get his coal cheaper. Waste within the industry would be eliminated because there would be a market for all grades of coal, for only enough coal would be mined to meet the demand. The operator, then, could afford to work his mine clean. As it is now, only about 60 per cent to 70 per cent of the coal is recovered. We have presented a plan and have shown by a suggested method of operation how it would remedy overdevelopment, that it would tend to eliminate waste, remedy the evils of distribution and remove the cause of labor troubles, so that the natural resources of our country will be conserved for future generations.

The plan is American in principle. It is in line with recent tendencies in our government. Our nation is growing so rapidly within recent years that Congress does not have the time to investigate all the activities of our national life and look after

all administrative details. So it creates commissions and delegates to each commission the power to regulate its particular industry. The Federal Trade Commission, the Interstate Commerce Commission, the Tariff Commission, and the Tax Commission are examples.

Congress set up a temporary Coal Commission in 1922. It finished its work in 1923. The facts are there but they have not been utilized because the government at present has no machinery through which to deal with the coal industry. The suggested commission would create the machinery and give our nation a permanent body whose business it would be to deal with this important industry.

There is precedent also for such a licensing system as we advocate. Because opiates affect health, a druggist must have a license before he can handle and a prescription before he can dispense opiates. Meat is an important article of food. Therefore, the Federal government, by a system of licensing and inspection determines when, where and under what conditions meat is to be packed. Pure food and drugs are necessary to good health. Therefore, our government regulates the manufacture of food and drugs. A stock dealer must have a license before he can ship stock from one district into another. We see then that, when an industry is vital to the well-being of the whole nation, the logical agency to regulate that industry is the Federal government. Not a single industry in the United States is more important than the coal industry. If all coal mines in our nation were closed for one year, said the *New York Times*, September 30, 1923, one-half of our people would be dead at the end of the time. More people die each year in the United States from lack of fuel than our nation lost soldiers in the World War.

Honorable Judges, it has been our purpose to prove four points:

1. The evils of the present system demand a change.
 - (1) Overdevelopment causes increased production costs and labor difficulties.
 - (2) The wasteful operating policy makes conservation of this natural resource impossible.
 - (3) The excessive number of wholesalers causes wasteful duplication of effort and increased costs.

2. Government control is the only feasible and logical remedy.
 - (1) Private control has failed.
 - (2) State control is unconstitutional.
 - (3) The nature of the business demands it.
3. The proposed plan is practicable, because;
 - (1) It is efficient.
 - (2) It will remedy the abuses now inherent in the industry.
4. The plan is American in principle, because;
 - (1) It is in line with recent tendencies in government.
 - (2) There is precedent for it.

Therefore, we of the Affirmative maintain "that the United States Government should establish a commission empowered to supervise and control the coal industries engaged in interstate commerce."

SECOND NEGATIVE

Reginald W. McDuffee, Emory University

Any plan looking toward governmental regulation of an industry must necessarily rest on the assumption that there is a public interest to be protected. The gentlemen of the opposition have quoted the United States Supreme Court as an authority. Accepting their estimate as to the finality of the decisions of the Supreme Court, we would call your attention to the Kansas Industrial Court case. The decision of the court reads: "It has never been supposed, since the adoption of the Constitution, that the business of . . . the operator or the miner was clothed with a public interest." There cannot be said to be such a public interest in coal as that Federal "supervision and control" would be warranted. However, were we to admit that there was a public interest in coal, still, the plan proposed here this evening would not protect this public interest. The public desires coal in sufficient quantities and at reasonable prices. Price is of no concern, for in America, we have the cheapest heat and power in the world. According to the statistics quoted by my colleague, American coal has been the cheapest in the world, even during periods of scarcity, as

far back as the records of the government extend. This statement has an absolute application except for a period of two months during the forty years covered by the government records. Therefore, you see, the only problem of immediate concern to the public is the matter of continuous supply. The whole problem, as regards the public, resolves itself into the matter of eliminating periods of scarcity in coal. Unless the proposed plan is able to cope successfully with the problem of stoppage in supply it is a mere farce, in that it is no remedy for the inconvenience of the public.

Now, let us determine the causes of past periods of scarcity and see if, after all, the plan of the gentlemen is not impotent to deal with the situation. There have been, since 1916, three periods of scarcity. These periods were analyzed by the United States Coal Commission and their causes determined. To quote from the report of the Coal Commission:

From this report, we gather that there were three periods of shortage—that in each case, car shortages were a contributing factor, in the first, the sole factor—and that the second and third periods arose from nation-wide strikes of miners, with railway strikes a contributing cause.

Now, since failures in the supply have, in the past, been due to strikes and car shortages, we would expect the gentlemen of the opposition to propose a plan which would combat the strike evil and make improbable further car shortages. Unless the proposed plan accomplishes these results, it is worse than useless. The proposed plan does fail to accomplish these results and it is therefore a mere makeshift, fundamentally wrong in theory and totally ineffective in actual practice. As regards the transportation evil, it is no remedy. There is already provided a remedy for car shortages, insofar as government agencies can apply remedies. Under the grant of powers to the Interstate Commerce Commission, there is given the power to allot cars to areas where a restriction of supply is threatened. This commission also has the power to give precedence to shipments of coal in cases of emergency. The Interstate Commerce Commission is empowered to act according as the exigencies of any particular case might demand. The matter of transportation is purely a matter of interstate commerce, and therefore under the jurisdiction of the Interstate Commerce Commission

and that commission alone. In this instance, another commission would necessarily be in conflict with the Interstate Commerce Commission. Matters would be further complicated, and would be even further from solution. Transportation difficulties would remain. The proposed plan is no remedy for transportation difficulties.

There is one other factor necessary to insure a continuous supply of coal, and that is the elimination of the strike evil. This second problem of the coal industry, strikes and suspensions, would find itself no nearer solution under government regulation and control. The gentlemen of the Affirmative cry out against the evils of the coal industry, and yet the very evil that their plan should remedy is left unsolved.

According to the statement of the subject: that this commission should be empowered to "supervise and control"—according to this grant of power, there is necessarily implied the obligation to hear appeals on wage agreements, employees' grievances and all like causes of friction. In other words, the chief duty of the commission would be to settle the strike problem. And this problem defies Federal solution. We have one example in point: the Railway Labor Board, appointed by President Harding. This board was appointed to work for harmony between employer, employee, and public. The board was created in order to insure continuous service on the part of the railroads. This board, after sitting for only a few months precipitated the greatest strike ever called, the railroad strike of 1922. This supervision—this control—this governmental interference in private business was a colossal failure. The board was dissolved; the experiment was admitted a failure. And yet, in the face of these facts, the gentlemen of the opposition advocate a similar extension of the powers of the Federal government over the coal industry. Government commissions are impotent to deal with the strike problem, and cannot protect the public interest.

The evils recited by the opposition are problems of the industry itself and are of no public concern. We have proved the proposed plan to be no remedy for those things of public concern. Further, it is no remedy for the ills recited by the gentlemen of the opposition. Though these problems are no concern of the government, still, the proposed plan, if adopted,

would not remedy them. They cry out against overdevelopment in the coal industry, but let me remind you that this condition is an outgrowth of government regulation during the war when the opening of new mines and the development of unproductive mines was encouraged by the Federal government. Further, they propose to check this evil through the shutting down of the mines on the government reserves. Their plan is unnecessary, for this very thing can be accomplished by the Bureau of Mines which has charge of the leasing of the public coal lands. The gentlemen complain that the miners only work a little over two hundred days per year, and they then contend that their plan should be adopted to meet the problem of unemployment. Coal mining is a seasonal industry and cannot, therefore, provide year-round employment whatever the system of supervision or control.

Thus, you see that the plan presented here this evening does not protect the public interest, in that it is no remedy for the causes of periods of scarcity in coal. The other evils recited are problems of the industry itself, and are not the concern of the government. Further, the proposed plan would not remedy these evils if it were adopted. The proposed plan is unnecessary, in that coal presents no national problem. There are three coal districts: Pennsylvania with its anthracite—the Appalachian region with its semi-anthracite and bituminous coals—and the western fields (Texas, New Mexico, and Colorado) with its lignite. Each district has its individual problems; each field presents peculiar problems to be solved. There are three types of mines: strip, drift, and shaft mines. The problems vary according to the type of mine; they differ between districts—between fields—between mines in the same field—in the same mine, and often in the same vein. There is a diversity of problem, calling, therefore, for diversified remedy. The problems are localized and demand localized remedies. There is not a great national problem which defies state boundaries, and demands a national solution.

We are reminded just here of the other business ventures of our government. There are three to which we would like to call your attention: Muscle Shoals, with its nitrate plant built at a cost of \$106,000,000 and valued today at about \$8,000,000—the railroad administration with its enormous deficit. And we

are reminded of that monument to folly, the United States Shipping Board, which represented an annual loss of about \$50,000,000, which amount does not include loss due to interest, insurance, or depreciation on invested capital. This was characterized by Albert D. Lasker, who salvaged the fleet, as the "most colossal commercial wreck that the world has ever known." Government supervision and control is marked by inefficient administration and increased costs. C. K. Leith, in an article entitled "Political Control of Mineral Resources," states that most people familiar with the coal industry are agreed that "it would not have reached its present high state of development under bureaucratic administration, because the problems involved—metallurgical, geological, commercial—are varied and intricate and seem peculiarly to require the free play of individual initiative." It is our belief, as stated by the authorities of the gentlemen of the opposition, that the coal industry must reform itself from within, that "the main responsibility for solving the problems of the industry must rest on the industry itself," that "not through governmental coercion but through enlightened self-interest of producer and consumer, the real remedy is to be sought." "The coal industry must reform itself from within."

The proposed plan is not the proper remedy for the ills of the coal industry; it is unnecessary in that there is no national problem. Governmental regulation has, in the past, proved inefficient. And now, the proposed plan, to regulate coal industries engaged "in interstate commerce," is unconstitutional. This is an attempt to regulate a private business under the guise of a measure to regulate interstate commerce. Coal in transit comes under the regulating power of Congress, and therefore all right and just powers of Congress over coal are now exercised by the Interstate Commerce Commission. Any further attempt to make the constitutional powers of Congress extend over coal before it is placed in the railroad car would be contrary to the intent of the Constitution, and in direct conflict with a specific decision of the United States Supreme Court, the final arbiter in matters of constitutionality. The United States Supreme Court on November 27, 1922, in a unanimous decision, in the Pennsylvania anthracite tax case, stated that the products of one state which are destined for another state

are not, before they have been moved from the place of their production, subjects of interstate commerce and not under the regulating power of Congress. There is no power, express or implied, over coal merely intended for interstate transportation. The gentlemen from Texas have utilized the argument of the unconstitutionality of state regulation, though we have not advanced the plan of state regulation. They admit the validity of the argument as to the unconstitutionality of a plan of regulation. According to the very same Constitution, according to a specific decision dealing directly with coal, the case of the Affirmative is proved unconstitutional.

The proposed plan is unconstitutional; it is unnecessary; it would be marked by inefficient administration and increased costs; and finally, it would be an unwarranted restriction of the powers of the sovereign states. It represents a dangerous tendency toward paternalism, bureaucracy, and too-great centralization. We are not only debating the question of government regulation of the coal industry. We are debating the question of the proper relation of government and business, and also the proper balance between state and Federal powers. To allow Congress power over coal before it is placed in interstate commerce would, as the United States Supreme Court stated, "nationalize all industries." If Congress can reach out and control the actual production of coal, then it can reach out and exercise control over the production of any commodity of which a single unit will ever cross a state boundary. We must not allow this further distortion of the powers delegated to the Federal government. Ours is ceasing to be a government of delegated powers and is fast becoming a government of all powers.

The plan proposed here this evening is part of a movement which we would characterize as a sinister attempt to strike at the foundation stones of our governmental system. If this socialistic movement succeeds, what would be the fate of a child about to be born into a coal-mining community? Before the child is born, he and his mother would be under Federal regulation under the pending maternity act. The child would be educated under a Federal system of education; if he desired to work after school, the Federal government would say "Yea" or "Nay"; when he grew up he would work for the coal commission; when he got ready to get married, he would marry

under the Federal marriage law; when he desired a divorce, the Federal court would hand down the decree deciding the legitimacy of his children. When he draws his pay envelope he knows not how much is his own, for he has already given a blank check on his earnings for life. Under this exorbitant income tax, which can reach out after death and take from his widow and orphans his hard-earned savings, under such socialistic measures the individual bows to no government but that at Washington. The death knell of local government is sounding, unless we rise to the protection of our American institutions.

The plan of the Affirmative has marked socialistic, bureaucratic, and paternalistic tendencies. It is unnecessary, in that coal presents no national problem. It is unnecessary, in that existing government agencies have the powers advocated for this commission. It is no remedy for the ills of the coal industry, external or internal. The proposed plan is unconstitutional.

FIRST AFFIRMATIVE REBUTTAL

Charles M. Crowe, Southern Methodist University

The gentleman who has just left the floor, and, indeed, the entire Negative argument, has failed to recognize the distinctive character of coal as compared with other industries. The essential distinction needs to be made and to underlie all the discussion on the subject, that coal is an exhaustible natural resource. There may be irregularities in other industries, such as the "steer industry" in Texas as the gentleman mentioned, but the analogy is meaningless when we recognize the peculiar nature of coal as a service controlling an exhaustible natural resource. Steers can be raised year after year, but once a ton of coal is removed, it cannot be replaced.

The Negative has assumed a position tonight that is entirely beside the issue involved in the question for debate. Their contention is that government control as advocated means virtually government ownership and operation. This position rests evidently on a grave misconception and misreading of the subject. The question is one of control and supervision and not ownership and operation. The two are vastly different. We of the Affirmative are not in favor of government ownership and

operation. Regulation is not destructive as the gentlemen seem to think. Well considered court decisions, in which the term is defined, hold that to regulate commerce implies an intention to promote and facilitate it, and not to hamper or destroy it.

The gentlemen of the Negative have raised the hue and cry of socialism, a cry that has been the weapon of every reactionary in government since the time of Adam. The gentlemen should have lived one hundred years ago when the laissez faire doctrine reigned supreme. But with the industrial revolution and the coming of large scale production, the industrial and social orders have become so complex that unrestricted competition has come to be a discarded policy. Government interference has become not only desirable but highly necessary if the rights and welfare of the people be protected. Socialism has been urged against all reforms. It has been argued that state education, birth registration, divorce laws, the income tax and other such measures are a dangerous socialistic tendency. We would ask the Negative if they are willing to discard these measures as undesirable and ineffective in stabilizing the social order? Socialism has come to be a meaningless term, a cover-all to arouse popular prejudice. Our plan is not socialistic. The fundamental principle of socialism is government ownership and operation of business, to which we are opposed. Our plan recognizes public interest in coal and gives the government the right to protect the public, and at the same time it recognizes the right of individual enterprise. It does not take property, but allows a man to use his property according to law and in the interests of public welfare. If government regulation is socialistic, what is the justification for the passage of any laws that interfere with the freedom of the individual. Why can the government imprison a man for murder and prevent him from possessing intoxicating liquors?

The Negative has wasted valuable time in arguing from the analogy of the failure of government operation of the Railroads and Shipping Board during the war. This contention proves nothing because, as in the case of the argument against government ownership and operation, it is entirely beside the point at issue.

The gentlemen of the Negative have chosen to assume the position that the coal industry as now organized is functioning

properly and that there is an abundant supply of cheap coal at all times. This is an unwise position to take because the most casual survey of the situation in the coal industry reveals an astonishing amount of defects and irregularities. The very fact that the Congress of the United States decided upon due deliberation to spend \$600,000 for a single investigation of conditions in the coal industry indicates that that body was under the impression that there was something wrong with the coal industry whether the Negative choose to think so or not. This investigation revealed an imposing array of grave defects in coal. And when a great national public service industry, controlling an exhaustible natural resource, because of certain evils uncorrected by internal self management, consistently fails to render a reasonable service to the people, other than for whose welfare it has no reason to exist, it becomes necessary for the parties of that industry to forego certain of their private rights for the public weal.

FIRST NEGATIVE REBUTTAL

Glenn W. Rainey, Emory University

MR. CHAIRMAN, LADIES AND GENTLEMEN: The last speaker of the Affirmative has made the interesting statement that if the coal industries of the nation shut down for a period of one year, at the end of this time one-half of our people would have perished. He then dramatically asks: "Is the coal industry functioning?" He then enumerated the difficulties attendant upon the producing of the nation's coal supply during the war period, and once more asks: "Is the coal industry functioning?" We of the Negative say to you that if the cattle industry of Texas were to be cut off from the consuming market for even a short period of time there would be felt a decided shortage of beef throughout the country; and we ask: "Is the cattle industry of Texas functioning?"

The gentlemen of the opposition have stated that if the coal industries are giving satisfaction then there should be no change. Now the Negative has already shown conclusively that the industries are giving satisfaction, inasmuch as the American people have bought the cheapest coal in the world for over forty years with the exception of one period of two months, a fact

established by the records of the Federal government; inasmuch as the present admirable condition of the national industries in general is due to a large extent to the fact that there has been always at hand a supply of cheap and abundant fuel; and inasmuch as the citizens of our country have exhibited clearly their contentment with the present situation by refusing to give heed to the pleas of socialistic reformers for Federal supervision and control.

The Affirmative has attacked this evening the middlemen of the coal industry, yet Mr. Davine, author of the book *Coal*, and member of the fact-finding coal commission, an authority of our opponents, defends these same middlemen on the ground that they serve a very definite purpose, and are a force for good in the industry, by acting in a financial capacity similar to that of banks, and in performing other important functions.

The gentlemen have stated that the American people have no permanent machinery with which to deal with coal problems. We would call attention to the fact that the nation has a Congress in Washington existing for the purpose of serving the public and that this representative body saw fit and continues to see fit to disregard the recommendations of the Coal Commission, recommendations by the way which are largely embodied in those advocated by the Affirmative this evening.

They continually insist that they desire not anything so drastic as government ownership but rather a mild regulation on the part of the central authorities amounting finally to nothing more than cooperation between the government and the industry. In fact, they see fit to dub their plan a cooperative one. The Negative maintains, however, that if domination means cooperation, then and then only is the plan cooperative. As we see it, the plan is analogous to a case of one man being given power to supervise the actions of another and to control his activity. In such case the second man is in effect the slave of the first. Call it cooperation if you will, but let it nevertheless be recognized that whatever rights the coal industry will have after the change will be rights allowed to it by the government; and its every policy and purpose must be subjected to the test of Federal approval.

The gentlemen of the opposition have advocated two things, fact-finding and licensing, to solve the problem of coal. The

first of these the Negative has shown to be already amply provided for under existing organizations. The government could do no more than flood the country with data of which there is already entirely too much, little impression as it may make on the public mind. As to the latter plan, that of licensing, we submit that the problems of coal which the Affirmative has led us to believe are so appallingly complex are not to be solved by so simple a process as multiplying one hundred and eighty thousand or some such similar number of tons by six and claiming that at the end of six years the problems of coal will have been solved. A charmingly simple plan it is, but the Negative takes the liberty to doubt its practicability.

SECOND AFFIRMATIVE REBUTTAL

Horace M. Lewis, Southern Methodist University

MR. CHAIRMAN, LADIES AND GENTLEMEN: The gentlemen of the opposition have presented their argument under five points. I shall attempt to answer each one separately. They say that the coal industry is functioning properly at present. The Congress of the United States expended \$600,000 to investigate the industry. This commission found that the miners worked an average of two hundred and fifteen days each year out of a possible three hundred and nine working days. It found that coal sold at the mines for about \$6.50 per ton and retailed for as much as \$15.00 per ton. It found *further* that one miner in every twenty is killed and one in seven is injured annually. I ask you then frankly and candidly, is the industry functioning properly?

The second point advanced by the gentlemen of the opposition is that the coal problem is so diverse as to make government regulation impossible. The very fact that the industry is diverse, that it is scattered over thirty-eight states that it includes forty-five mining districts, forty-four of which do an interstate business, makes regulation by the Federal government necessary.

Their third point is that the plan, which we of the Affirmative advocate, is unpopular. They quote in support of this point a statement from the National Coal Operators Association. Honorable Judges, we did not expect our plan or the recom-

mendations of the temporary Coal Commission to please the operators.

Their fourth point is that the plan which we advocate is unconstitutional. Honorable Judges, if Congress created a temporary coal commission and gave it power to investigate the coal industry and make recommendations to Congress, if this commission had the expert legal advice of the Department of Justice with all its talent and such other legal talent as it might choose, and then it brought in recommendations which are unconstitutional, as our opponents allege, then how are inter-collegiate debates to hit upon a constitutional plan? No two authorities are agreed as to just what is constitutional and what is not. The Supreme Court often decides such questions by a five or four vote.

Their last point is that the plan which we advocate is a violation of states rights. Honorable Judges, a state cannot control interstate commerce, and the question under discussion is limited to "the coal industries engaged in interstate commerce." In 1887, Congress created the Interstate Commerce Commission. Since that time the Federal Trade Commission, Tax Commission, and Tariff Commission have been created. If such a plan as we advocate is a violation of states rights then the gentlemen of the opposition and the states have been a long time discovering the fact.

It has been the purpose of the Affirmative to prove to you four points.

First the evils in the present system demand a change. We showed you that there is at present an excess capacity of three hundred millions of tons of coal. Since the mines are idle practically one-third of the time, the public pays the overhead expense and must feed the idle miners. That means increased cost. The present operating policy makes conservation impossible. Only about 60 per cent to 70 per cent of the coal is recovered. The excessive number of middlemen makes for duplication of effort and increased cost. Coal passes through the hands of two, three, four, and even more wholesalers before reaching the retailer.

Our second point is that regulation by the Federal government is the only feasible and logical remedy. Private control has failed. Periodic strikes, coal shortage, high prices and suffering on the part of the public is the order now.

State control is unconstitutional because of the statement of the "industries engaged in interstate commerce" and because industry covers thirty-eight states and forty-five districts, forty-four of which engage in interstate commerce.

Our third point is that the plan which we advocate, is practicable because it will remedy the evils of overdevelopment by refusing to license any new mines for a period of five years. It will prevent strikes by removing the cause. It will remedy transportation evils by an extension of the licensing system. It will eliminate waste by providing a market for all grades of coal and enabling the operator to work his mine clean. It will also conserve this natural resource for future generations.

The plan is American in principle because it is in line with recent tendencies in our government. Congress controls various national activities by creating commissions and delegating to each the power to regulate its particular industry. The Federal Trade Commission, the Tax Commission, the Tariff Commission, and the Interstate Commerce Commission are examples. There is precedent for the licensing system. The Federal government regulates the manufacture and sale of opiates, meats, food, and drugs.

Honorable Judges, coal is the black servant of our nation and the world. It begins at birth and continues through life and death its ministry of service. Therefore, can we not reasonably ask, "That the United States government create a commission empowered to supervise and control the coal industries engaged in interstate commerce?

SECOND NEGATIVE REBUTTAL

Reginald W. McDuffee, Emory University

In opening the case of the opposition, the first speaker treated coal as an exhaustible commodity. And in support of his argument as to the exhaustibility of coal, he cited Devine's book on *Coal*. However, in the closing paragraph of the very chapter he quoted, the author states that for all practical purposes coal can be considered "almost inexhaustible."

The gentlemen have cried out against strikes. They have pictured the terrible suffering brought on by strikes. But, let me remind you that their plan is impotent to combat the strike

evil. Government commissions are powerless as regards the prevention of strikes. The Railway Labor Board after sitting for only a few months precipitated the greatest strike ever called, the railroad strike of 1922. The Royal Coal Commission of Great Britain is unable to prevent the strike of two million mine workers which is to be called at midnight tonight. The gentlemen's plan is no remedy for strikes.

The gentlemen insist that there should be less waste in the mining of coal. Before the Senate Committee on Manufactures, it was testified that there was possible only a 15 per cent increase in the amount of coal extracted from a given quantity of ore. Let me remind you that there are two kinds of waste: efficient waste and inefficient or needless waste. The waste in the mining of coal is efficient waste. More coal per ton of ore could be secured, but we now get the greatest amount of coal for the least expenditure of time, effort and expense which is not waste, but is, rather, the strictest economy.

There has been a great deal of time devoted to the matter of the price of coal. Price is of absolutely no concern, for America has for forty years, with the exception of two months, enjoyed the cheapest coal in the world. There is no problem of price. Our coal can be bought, according to Senate Document 462, at the mine for about one-half the price of coal at the government controlled mines of other countries.

The gentlemen desire greater safety of life and limb for the miner. Let me remind them that there is already ample provision, under Federal regulation, for the safety of miners. The Bureau of Mines is now charged with the duty of making necessary investigations in mining safety, etc. There is already provided a remedy for this ill, and the plan of the gentlemen proves unnecessary in another instance.

The opposition desires relief from unemployment in the coal industry. There will be more mines and more miners in the coal industry than are needed for steady year-round production as long as the industry remains seasonal. There must be enough mines and miners to satisfy the peak demand, and there will necessarily be attendant unemployment. The industry is solving the problem of its seasonal character through the lowering of prices during slack months. The government could do no more. The opposition states that storage would

solve the problem. Their own authorities, the United States Coal Commission, states that storage, except by the consumer, is "commercially impracticable."

The gentlemen would license mines. There would be just enough mines to satisfy the annual demand for coal. Now, this is economically unsound, for we would have little demand for coal during the summer months and there would be too great a supply for the limited demand and the price would fall to such a low figure that it would harm the producer. On the other hand, you would have too few mines to meet the winter demand and the undersupply would force prices to the sky. Too low prices for reasonable profit in summer, and too high prices for the consumer in winter would make the latter state worse than the former. The seasonal demand must be remedied before seasonal production will disappear. Federal regulation can have no effect upon the seasonal demand. Licensing is economically unsound.

Capitalists would not invest readily in an industry from which the license was likely to be revoked at any time, or for any cause the commission might name.

The proposed plan is no remedy for the ills recited by the opposition. It is no remedy for waste, strikes, prices, miner's risks, unemployment. The proposed plan is impotent to deal with the problems of the coal industry and should, therefore, not be adopted.

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CHAPTER III

A FEDERAL DEPARTMENT OF EDUCATION

SWARTHMORE COLLEGE
and
DUKE UNIVERSITY

RESOLVED: *That this house approves the Curtis-Reed bill providing for a Federal Department of Education.*

This is a stenographic report of the fifteenth annual debate between Duke University and Swarthmore College, and the third debate between these two institutions on the open forum plan. It took place at Craven Memorial Hall, Duke University, March 26, 1926, with Professor Holland Holton of the Department of Education, Duke University, presiding officer. An open forum discussion followed, in which members of the audience participated. The vote, taken on the question at the close of the discussion, by raising of hands, showed a balance in favor of the Negative. This report was secured thru the courtesy of Mr. Richard M. Perdew, Manager of the Swarthmore College Debate Board, and Professor Herbert J. Herring, Secretary of the Debate Council, Duke University.

BRIEF

A FEDERAL DEPARTMENT OF EDUCATION

AFFIRMATIVE

INTRODUCTION :

- A. The question of education is an important one.
 - I. The Constitutional Fathers approved it as one of the most fundamental questions before the country.
 - a. They considered it important for the country to aid education in every way.
 - 2. It has been said that our people are not receiving education enough.
 - a. President Lewis, of George Washington University, has said we were not educating people to make proper use of their leisure time.
 - 3. President Coolidge has given his approval to attempts to recognize the importance of education.
- I. Our present system of education, altho probably greater than that of any other country in the world, falls far below the standards of a great many other civilized nations.
 - A. The precentage of illiteracy is much greater for the United States than for many other civilized nations.
 - I. It is 6 per cent, as opposed to .2 per cent in Germany and Denmark.
 - B. There are many wastes in our present system.
 - I. Millions of dollars are spent annually on school construction.
 - a. Considerable saving could be effected if knowledge as to the most efficient methods of construction could be wide-spread.
 - 2. Better methods are needed of financing our schools.
 - 3. Research work is needed on better methods of teaching.

- a. Millions of dollars are spent teaching again children who fail.
- b. The percentage of physical disability among our people is greater than it need be.

II. As a solution for these problems, we offer the Curtis-Reed bill now pending in Congress.

- A. This bill creates a department of education, with a secretary in the President's Cabinet.
- B. It transfers to this department of education
 - I. The power of gathering and disseminating statistics and results of research, now exercised by the Bureau of Education.
 2. The Federal Board of Vocational Training.
- C. It gives the secretary power over his department such as any other executive secretary exercises over his department.
 - I. It avoids the situation which arose during the war, when the War Department and the Bureau of Education could not cooperate in the education of the soldiers in connection with the R.O.T.C. because of red tape.
- D. It creates a Federal conference on education.
- E. It provides for an appropriation of \$1,500,000,000 annually.
 - I. This is to be used for research and in making the results of such research available to all the states.
 2. It will allow a complete survey to be made of the educational conditions in the country every five years.

III. The Curtis-Reed bill will remedy the evils and defects of our present system of education.

- A. It will give unity and coordination to the present educational activities of our nation.
 - I. At present, conditions are haphazard.
 - a. More than forty executive departments have agencies dealing independently with educational matters, with no directing hand to guide them.

2. It will unite into one department, the Bureau of Education of the Department of the Interior, and the Federal Board of Vocational Education.
3. It provides for an interdepartment council of education composed of representatives from each of the executive departments of our Federal government.
4. It will avoid duplication and secure unity of plan, purpose and action.

B. It will help to solve the problem of illiteracy, and of a foreign element in our population not in sympathy with our ideals and institutions.

1. Our present educational system has failed to function effectively in regard to these problems.
2. The Curtis-Reed bill will solve this problem by providing for greater efficiency in all branches of education.

C. It will make possible organized research, and the dissemination of the results thereof, that will make our educational system efficient.

1. It will furnish the information needed, in order to help the states.
 - a. Establish and maintain more efficient schools and school systems.
 - b. Devise better methods of organization, administration and financing of education.
 - c. Develop better types of school buildings.
 - d. Improve methods of teaching.
 - e. Develop more adequate curricula.

IV. The Curtis-Reed bill will not, as is contended, create new or greater evils than those now existing in our educational system.

- A. It does not mean Federal control of, or Federal aid to, education.
- B. The proposed department of education cannot, as has been said, become an educational dictator, nor federalize education and take away states' rights.
 - i. The department cannot assume powers not granted

to it by the Curtis-Reed bill, except by an act of Congress.

a. Congress itself would act as a check, and as a protector of the rights of the states.

C. It is not likely that the secretary of the proposed department of education would ever become a political tool.

1. His position would be one of too great responsibility and prominence for such a thing to happen.
2. He would be appointed in the same manner as the secretaries of the other executive departments of our Federal government.

V. The present Bureau of Education has failed to meet the needs of our educational system.

A. The Bureau is too small to lead effectively the educational activities of our various states and cities.

B. To enlarge its powers and scope would not suffice.

1. It would never have the influence that a separate department would have.
 - a. It could not work on a parity with other executive departments of the government.
2. It is not right, in principle or in practice, for a bureau in a department to have as much power as the department itself.

VI. The proposed Federal department of education is sound economically.

A. If thru research and spread of information, as provided by the bill, there would be a saving of only 1 per cent, it would mean an annual saving to our people of \$17,000,000.

B. It is estimated that by nation-wide planning, the cost of school building alone could be reduced 5 per cent.

I. This would mean a saving of \$13,400,000 annually on this item alone.

C. If the number of school failures could be reduced, one in twenty, there would be an annual saving of \$3,000,000.

VII. The Curtis-Reed bill is constitutional.

A. The objectionable features of earlier bills that led to their being denounced as unconstitutional, have been omitted from this bill.

VIII. It is based upon precedent and contains no new principle.

A. It is in accord with the establishing of the Department of Agriculture, of Labor and of Commerce.
1. Education is fully as important as any of these.

IX. Public opinion favors the establishment of a Federal department of publication.

A. The Curtis-Reed bill is supported by
1. Millions of intelligent patriotic citizens.
a. This includes many not in favor of former educational bills.
2. An overwhelming majority of those engaged in the work of public education.
3. Many important national associations, friendly to public education.

NEGATIVE

I. The Curtis-Reed bill, though harmless on the face of it, contains the germs of Federal control.

A. It will lead first to appropriations for aid to the states.
1. Such appropriations will be substantially Federal control.
a. The R.O.T.C. is an example of this.
(i) It is a regular part of the curriculum in the colleges where it is established, but is paid for and controlled directly by the War Department.
(a) The college itself has no control over this department of its own institution.
2. The nature of the forces back of the bill would indicate that this is the case.
a. They are the same forces which were back of the Towner-Sterling bill, which included Federal appropriations of \$100,000,000 to the states.

B. Federal aid is equivalent to Federal control.
1. No state will refuse aid when offered to it,

- a. States in their psychology are much like children.
 - (1) They would be willing to comply with certain minimum requirements in order to get the money as a child will say "please" in order to get a piece of candy.
- 2. Federal aid would result in minimum requirements being made of the states before they could get the money offered.
 - a. In the Towner-Sterling bill two minimum requirements were
 - (1) A minimum school session of twenty-four weeks yearly.
 - (2) Laws for compulsory attendance.
 - b. What is this but Federal control?
- C. Federal control of education would be vicious.
 - 1. It has always been our pride and glory that education has been controlled by the people in each community for themselves.
 - a. Control of education is reserved for the states.
 - 2. Federal control would deprive the people of their rights of local self-government.
- II. Many prominent people and organizations are opposed to this bill.
 - A. Dr. Murray Nicholas Butler of Columbia University.
 - B. Dr. Pritchett of M.I.T.
 - C. Dr. Penniman of the University of Pennsylvania.
 - D. The National Grange.
 - E. The United States Chamber of Commerce and similar organizations.
 - F. Most of the newspapers of the country, regardless of party affiliation.
- III. The Curtis-Reed bill is, in itself, weak, ineffective and inefficient.
 - A. It delegates no real authority to the proposed department of education.
 - i. All it can do is to investigate and make its investigations available.

- a. Information on educational reforms is already available.
 - (1) In the files of the Bureau of Education.
 - (2) In the educational periodicals of the country.
- b. There is more available now than is needed.
2. Not all the information to be had can force a state to make reforms against its will.
- B. The present Bureau of Education would do just as well as a new department.
 1. It could handle the increased appropriations as well as it does its present funds.
 - a. The bill allows for no new functions not already exercised by the bureau.
 - (1) It would only increase the amount to be spent.
 2. There are three bureaus in the Department of the Interior already spending more money than would be granted to this new department.
 - a. They are not asking for the dignity of a separate department.
- C. A million and a half more to the educational system of a nation already spending over \$2,000,000,000 annually will do little good.
- IV. The Curtis-Reed bill while not proposing a strong department will start the tendency toward a powerful department of education.
 - A. Once the department is established, it will not be long before it has plenty of money from Congress to carry on.
 - I. The analogy to the Department of Labor does not hold.
 - a. The Department of Labor touches no local units and invokes no questions of sovereignty.
 2. The Departments of Labor, Agriculture and Commerce now have large appropriations.
 - a. The Department of Labor has an appropriation of \$8,000,000.
 - b. The Departments of Agriculture and Com-

merce have appropriations of \$58,000,000, and \$24,000,000 a year respectively.

- B. This would mean over-organization of our school system.
 - 1. It would mean scrapping the school systems of the several states.
 - 2. It would substitute, instead, a Federal system of education, subsidized and regulated from Washington.
- C. The Federal government would come, gradually but inevitably, to exercise a large measure of dictation and control.
 - 1. This control, vested in a cabinet officer, would be exposed, inevitably, to partisan influence.
 - a. The secretary would probably be a man from the President's own party.
 - (1) President Harding removed Commissioner Claxton, altho he was an able man.
 - 2. It would inaugurate at Washington a vast politico-educational machine.
 - a. Instead of attaining higher dignity in the councils of the nation, education may instead be tainted with sordid, partisan politics.
 - 3. The Gederal government has never been and will never be willing to finance any enterprize without retaining the right to regulate expenditures.
 - a. Regulation is only another name for control.
- D. Such control would not be as efficient as at present.
 - 1. The proposed department would not be able to establish a broad, far-reaching policy.
 - a. The average term of office of a commissioner of education is nine years.
 - b. That of a cabinet officer averages two years and eight months.
- E. A gift in the educational field always has a string tied to it.
 - 1. The Duke endowment is administered not from Duke University but from New York.
 - 2. This would be even more true of the Federal government.

- a. It is encroaching more and more upon the power of the states.

V. The final result of the Curtis-Reed bill would be standardization.

- A. Standardization, according to Professor Machen, is an ancient principle, that has been inimical to liberty at every step of human progress.
- B. Standardization applied to the sphere of education means intellectual and moral decline.
 - 1. Our schools today are turning out machine products.
 - 2. The aim of education should be, not to make human beings conform to some fixed standard, but to preserve individuality.
- C. Uniformity in education means something not uniformly high but uniformly low.
 - 1. It reduces all to a dead level.
- D. Competition with private schools, church schools and neighboring state schools is necessary to put vigor into state education.

A FEDERAL DEPARTMENT OF EDUCATION

SWARTHMORE COLLEGE

and

DUKE UNIVERSITY

PRESIDING OFFICER

Professor Holland Holton, Duke University

LADIES AND GENTLEMEN: We have met this evening for the fifteenth annual debate between Duke University and Swarthmore College. The last two debates have been under the open forum plan, each institution having a representative on each side of the discussion. This is the third debate under that plan.

The topic for discussion this evening is one that is of especial interest to those who are interested in the general question of education and in questions relating to the public school in particular. At the time the Constitution of the United States was adopted there were only six states, I think it was, who had adopted constitutions that even mentioned education. There is no mention made of it in the Federal Constitution. For a number of years the problem has been what the Federal government should have to do with education, what recognition it should give. This problem has been especially alive in the last few years, as these gentlemen who are on the debate will tell you.

I shall pause long enough here before announcing the speakers for the evening to say that these debates usually are the most warmly contested of our forensic contests. They have a tradition back of them. It is usually true that Swarthmore sends its best team this way and it is usually true also that we put up our best team. Of course, there are exceptions to all rules and I am not prophesying what will happen this evening. The precise wording of the query is:

RESOLVED: That this house approves the Curtis-Reed bill providing for a Federal department of education.

The speakers on the Affirmative for this evening are: Mr. Orrick Metcalfe of Swarthmore and Mr. Charles E. Hamilton, Jr. of Duke; and the speakers on the Negative are Mr. Richard M. Perdew of Swarthmore, and Mr. George B. Johnson, of Duke. The first Affirmative speaker has twelve minutes for his first speech and five minutes for rebuttal. The other men will appear in the order named and have fifteen minutes for first speech but no rebuttals. At the conclusion of the discussion, the members of the audience are free to ask questions. You may take as long as two minutes stating a question if necessary but no one member of the audience can use more than five minutes on the questions that he puts to the speakers. We do not want any one member of the audience to take up too much time, but questions are invited. These gentlemen will know that they have not aroused your interest unless you ask them at least fifteen or twenty questions each; so be sure you have some questions ready to ask your favorite when the time for the discussion arrives.

FIRST AFFIRMATIVE

Orrick Metcalfe, Swarthmore

MR. CHAIRMAN, LADIES AND GENTLMEN OF DUKE UNIVERSITY: It means a lot for a debater from Swarthmore to have the honor of coming down and speaking in one of the annual contests—not exactly contests but more or less joint discussions as we have made them, with Duke University. As to what the chairman has said about Swarthmore sending their best representatives down here, I do not want to raise your expectations at all. There are a number of men who go out for different subjects during the year and it just so happened that hardly any men went out for the subject of education than the ones who will speak on the subject to you this evening. So here we are!

You might say that the constitutional fathers sounded the great keynote of education when they said that they approved of education as one of the most fundamental developments in the country and that it would be most important for the country to aid it in every way, shape or form possible. These men were William Penn, Thomas Jefferson, and George Washington.

About two weeks ago I attended an address in Philadelphia delivered by President Lewis of the University of Washington, I beg your pardon, George Washington, and in the main he said that we were not educating our people enough and even at that we were not educating them properly because we were not educating men to use the spare time which is given them by the putting in of such things as the eight-hour day and such laws as that. President Coolidge, the middle of last year, made this statement: "Pending before Congress is the report of the committee which proposes to establish a department of education and relief, to be presided over by a cabinet officer. Bearing in mind that this does not mean interference with the local control, but is rather an attempt to recognize and dignify the importance of education effort, such approval has my hearty endorsement and support."

This opinion reflected in President Coolidge is the note that we have so often heard.

America has the greatest system of education of any country in the world, but probably if our system were the greatest of any civilized nation in the world, even then we fall far below the standards set in a great many other civilized nations. May I quote a few percentages of illiteracy. To begin with, there is a .2 per cent illiteracy in Germany and Denmark and coming on down the line progressing to 6 per cent illiteracy in the United States. I need not mention the effect of illiteracy on the policy of our country in so many important matters, but especially the policies of America which they are unable to think out or in any way, shape or form, read or otherwise interpret such policies as come before the people for their approval. Not only that illiteracy but there are a great many other things which are now facing the United States and should be met.

To begin with there are many millions of dollars being spent on the construction of schools every year and it is estimated by very good authorities that in these schools there ranges from 40 to 60 per cent floor space. In other words in these statistics which were taken from some of the most progressive schools, many of them had only 40 per cent floor space, and only a few had the opportunity of getting such research work done as would enable them to get the best for their money. If these statistics which are brought out by the Federal government, if the Curtis-Reed bill is adopted and if 5 per cent of the construction cost

would be saved to the nation, \$19,000,000 will be saved every year. Now the schools themselves have little resources and time and opportunity to get together such information as will enable them to save this money. The states often have no resources available that will enable them to do this and whenever they do there is a great deal of duplication done in the different states doing the same research work at the same time. Not only that, but we need better methods of financing our schools. I speak of this in North Carolina because in your state, and my state, Mississippi, which is the lowest in the list, we do not have the money to spend on education such as a great many states in the union and it is to our advantage to gather together such statistics as are available so as to give the children of our state better opportunities than they have today. We need research work on better methods of teaching. Many millions of dollars are lost every year through having to teach children who fail over again. We need better methods of teaching these children with new methods of education and try to find some other way of educating them rather than by the old system by which so many of them fail every year. My honorable opponents will tell you that these things are not the case; that we have a great deal of illiteracy in the country, and that the average health of men between the ages of twenty and thirty is not far below what it should be. In other words taking the statistics from the draft, one out of every six men were unable to serve their country because of the fact that they were physically disabled. Physical disability could be disposed of if the people were sufficiently enlightened along these lines. My opponents will agree as to this. But what will they do about it? We of the Affirmative have a solution for this—adoption of the Curtis-Reed bill which is now pending in Congress. What does it do? It creates a department of education with a secretary in the President's cabinet. It transfers from the Bureau of Education, the only instrument we have in the Federal government, the power of gathering together research work and statistics and disseminating it as they desire (which is done in a very inefficient manner) to the proposed department of education and also transfers to that the Federal Board of Vocational Training. It gives the secretary power over the department such as an secretary exercises over his department. It creates a Federal conference on education. I want to tell you something about the problem that came up in Wash-

ington. The way it came up was this. It is impossible for a member of one department to take up a matter with a member of another department without first going through the head of the department in which the bureau is a part. During the World War a great deal of information was desired along educational lines. They were doing educational work among the soldiers in the camps and starting the R.O.T.C. Immediately they set to work to secure the information. After they had been working on this about six months and had received very meager results, somebody discovered that there was an organization known as the Bureau of Education and when they went to it, they found that this work had been done long ago by the bureau; thus it was impossible for them to go straight to the bureau and get the statistics. They had to go through the Secretary of the Interior and they were unable to cut out such red tape. They had to get the men out of the Bureau of Education and transfer them to the War Department where the information which they could supply was needed.

This bill provides for an appropriation of \$1,500,000 annually. This is to be used in collecting research work together and disseminating the results so attained to the different states. Now we have \$220,000 which is available for this work. This provides \$1,500,000 for the same work and allows for this sum, money that every year will be able to do a great deal of research work and which every five years will allow a complete survey to be made of the educational conditions in the country. Thus it greatly enlarges the scope of this bureau and gives the states a bigger opportunity to get more for their money. We have tried to show you the essence of the bill, what it means, but there is one other thing. This will cure the evils indirectly. It cannot go in and say "You do that or the other." It is to show the people how, and educate them to see its true importance. Thus I have tried to show you what this bill is and my colleague will explain to you how this bill will meet the demands of education and will eliminate a great many of the evils which we have.

MR. HOLTON: Before introducing the next speaker, I wish to remind you, Ladies and Gentlemen of the audience, that at the close of the debate you are expected to vote your convictions as thy stand at that time. Be prepared to vote, after you get through asking questions.

The first speaker on the Negative is Mr. Richard M. Perdew of Swarthmore, who was here on this same platform two years ago representing Swarthmore.

FIRST NEGATIVE

Richard M. Perdew, Swarthmore

MR. CHAIRMAN, FRIENDS OF DUKE: My friend, Mr. Metcalfe, has given you some very sound arguments, in fact they are mostly sound. He has talked about how "the fathers" were so much in favor of education, that it would be the foundation of democracy, and all that. Well, the fathers have been blamed for a great many things and I think they might have been left out of this. And I might say that I do not disagree with them. He has pointed out the every crying need of men who are illiterate, who are weaklings, and of other under-educated people. And to remedy this terrible need he has suggested that the Bureau of Education become a department of education. I am sure that they would all raise a mighty shout of appreciation if they were informed that such a measure was before Congress. How are they going to be benefitted by this insignificant change? Changing a bureau into a department? I ask the Affirmative to show a bit more conclusively what is the difference between one and the other.

I believe it finds itself caught between the two alternatives. Either they regard this as an insignificant reorganization which will lead to nothing further, or else they regard that this department of education will be granted larger opportunities to give aid to the states, in which case they are arguing for an entering wedge which will result sooner or later in Federal subsidies to the states, which is substantially Federal control of education. They must take either the one or the other. It appears from the first speaker's argument that they are taking the first of the two alternatives. However, I disagree with them. I think they cannot logically take this position, safe though it may seem to them.

It is my contention that this bill, though harmless on the face of it, contains in it the germs of a dangerous doctrine, the doctrine of Federal control, and I would ask the next speaker to answer the question definitely. If he will, then I am sure he will make clear which of these two alternatives he is taking. But my

case is this. First, that the bill will lead to appropriation of aids to the states; secondly, that such appropriations would be substantially Federal control; and in the third place that Federal control would be both inefficient and in violation of state sovereignty in education.

Let me call to your attention, for example, the Reserve Officers Training Corps—or R.O.T.C. as it is called. It is simply a department of education in some colleges and universities paid for and controlled directly by the War Department, and yet is a regular part of the curriculum for which credit is given. The institution itself has no control over that department which is entirely under the control of the War Department. Men are compelled to drill; they are induced, their consciences or objections are appeased, by such bribes as pay, if they continue long enough, riding polo ponies and other inducements which quiet their objections. That is a case of the direct Federal control of education. And we are just awaking to the fact that it has a firm grasp on the college.

That is an example of Federal control, a thing which I am most seriously attacking. There is nothing in this bill which speaks of it but I believe that I am logical in taking that viewpoint. The forces which have for the past eight years sponsored the Towner-Sterling bill, including the Federal appropriations of \$100,000,000 to the states, are the very same forces which are backing the Curtis-Reed bill. They have not given up their hope of Federal aid. They have realized that they cannot have the whole cake at once.

John K. Norton, director of the Bureau of Research of the National Education Association, says that he considers Federal aid as inevitable. I think he is willing to accept this bill now as soon as it is granted and he is going to fight on for the provision which was in the former bill, that is, the appropriation of \$100,000,000 given to the states as subsidies. The case of Federal aid to the states in building roads is a case in point.

Oh, here we are talking about the future, the opposition may object; "Take the bill on its face value and forget what may happen." As people who look to the future, we cannot be contented with that sort of quieting remark. Duke University is looking to the future if anybody is. I stood in the room today before the charts which illustrate your plan of development and

expansion. It caused me to start dreaming of that beautiful campus in which you will have all those fine buildings, a natural lake, etc. I say that Duke University is certainly looking to the future, as all sensible people are today. I have only one regret, however. Swarthmore is a coeducational college and so is Duke; but I regret to hear that henceforth the sheep are to be separated from the goats. I have heard, however, that a very broad and smooth boulevard is to be placed between the two sections of the University and I presume most of the college "flivvers" can make the grade.

I believe that Federal aid is equal to Federal control because no state when offered a portion of \$100,000,000 to help pay its teachers is going to turn it down. I want to point out that the states in their psychology are like children. Suppose you offer a child a piece of candy and tell him you will give it to him if he will say "please." Of course he will. But it is no better training to offer a state money for bringing up its educational standards than it is to teach a child to be polite by offering it prizes. The result of giving aid would be just like this, that certain minimum requirements would be made of the states and that they would have to measure up, else they would not receive the Federal aid, and that is the fundamental of Federal control. In the Towner-Sterling bill there were three minimum standards. Two of them only are important in this case. The first was that there should be in every state a minimum session of twenty-four weeks of school. Second, that there should be compulsory attendance laws in every state. That is letting the money out to states and saying that they must do certain things if they get it. What is that but control? That is very definitely prescribing to the states what they must do. I might mention that there are eleven states which would have to improve their standards to meet the first requirement and six to meet the second. That would be Federal control; and I want to point out again that to have the government give money to get the states to raise their standards, as the National Education Association thinks they ought to, would buy their rights in local education, and thus deprive them of their local self-government jurisdiction.

I think I need not dwell upon the vicious evils of Federal control of education. It has always been our pride and glory that education has been controlled by the people in each com-

munity. The will of the majority, even though it is expressed by Congress, is not the will of God. To the states is reserved the control of education, and though the majority of the states think that all states should measure up to certain standards, I say that the majority have no right to thus encroach on the liberties of the minority. Lord Bryce, has said that:

Reformers, impatient with the slackness and parsimony common among local authorities, have, however, been everywhere advocating national intervention, insisting that the reluctance of the local citizen to spend freely makes it necessary to invoke the central government, both to supervise the schools and to grant money from the treasury for the salaries of teachers and various educational appliances. Here, as is often the case, the choice is between mere rapid progress on the one hand, and the greater solidity and hold upon the average citizen's mind which institutions draw from being instructed to popular management.

That is our stand, and in conclusion let me say that it is the stand of many noted scholars in our country, such as the presidents of Harvard, and Johns Hopkins. And, at least, I hope that it is the opinion of the majority of this learned audience.

SECOND AFFIRMATIVE

Charles E. Hamilton, Jr., Duke

In this fifteenth annual debate, it is my privilege and pleasure to extend our greetings and hearty welcome to the representatives of Swarthmore College. We have enjoyed a long and exceedingly pleasant relationship with Swarthmore in forensics. Perhaps a longer relationship in this activity than we have with any other institution. In behalf of the entire University, I wish to extend to you gentlemen of Pennsylvania, the simple southern greeting, "You are welcome."

My colleague briefly outlined the history of education in the United States and introduced and fully explained the Curtis-Reed bill. He further pointed out the shortcomings and defects of our present educational system. My part tonight will be to show you that the Curtis-Reed bill will remedy these evils and defects and will not create new or greater evils. I shall also point out that the Curtis-Reed bill is economically sound, is right in principle, is constitutional, is based upon precedent and favored by public opinion.

Now, proceeding to my first point, the Curtis-Reed bill is desirable and practicable in that it will remedy the evils and defects of our present educational system. In the first place, it will give to the educational activities of our nation unity and coordination, rather than the haphazardness that exists at the present time. The present condition of our Federal educational activities is analogous to the conditions that existed sometime ago in the states, before state departments of education came into existence. Then each city, town, locality and country was a separate unit, each teaching different books and having an almost entirely different system. Research, cooperation and coordination were things unheard of. Then the state department of education came into existence and brought about research co-operation, and coordination, the beneficial results of which are apparent. There is not one among us tonight who would say that the state departments have been a failure. At the present time in the executive department of our government there are more than forty divisions or agencies that deal with education, with no directing hand to guide them or make their work more efficient by eliminating duplication. Here let me give a worthwhile illustration of this point. One of our own professors of education states that he received only a few days ago the same educational bulletin from three different departments of the Federal government. Now the Curtis-Reed bill united the Bureau of Education of the Department of the Interior and the Federal Board of Vocational Education into one, to become the nucleus of the new department of education. However, it leaves intact these divisions or agencies of the Department of Labor and Agriculture that deal with education. The ingenious part of the bill is that it provides for an interdepartmental council of education, composed of representatives from each of the executive departments of our Federal government. These provisions will coordinate the educational activities of the Federal government, and coordination is imperative if our educational system is to function to the best advantage of education. The educational activities of the Federal government can work to the best interests of the citizens only as they are coordinated into one department and thus avoid duplication and secure unity of plan, purpose, and action.

In the second place, there are five million illiterates in our country now, with no concentrated, consistent effort being made

to wipe out this blot. Also there is the pressing problem of foreigners in our country. There are millions of people illiterate and out of sympathy with American ideals living in our country and exerting their harmful influence on those about them. Our present educational system has failed to function effectively in regard to these problems. But the Curtis-Reed bill will strengthen our present system and help solve the problems by providing for greater and more efficient work in rural, elementary, secondary, higher, professional and physical education, training of teachers, immigrant and adult education, and in those fields now so needful of attention. These problems deserve the most careful attention that we can give them, for their solution is essentially vital to the welfare and prosperity of our nation and is deeply essential to the educational growth and advance of our states and nation.

There is another very pertinent side to this question. Did it ever occur to you that the United States spends annually nearly \$2,000,000,000 for education, and that there are nearly eight hundred thousand teachers and twenty-one million school children in the United States? Yet, we find that the knowledge of the facts needed to make the work of the schools most effective is not available. Greater research, dissemination, and publication of information gained by this research, is an imperative national need, and the information needed can never be supplied except through organized and directed research. A million children fail each year to make their grade, involving a tremendous loss. Hundreds of new buildings are improperly planned, and millions of dollars are spent in a scattering, desultory fashion. But again, the Curtis-Reed bill makes available means of directing this money into the most effective channels in the most efficient way. Now just how does the Curtis-Reed bill help this situation? It provides for the gathering of such statistics and facts as shall show the condition and progress of education in the several states and in foreign countries in order to aid the people of the several states in establishing and maintaining more efficient schools and school systems, in devising better methods of organization, administration, and financing of education, in developing better types of school buildings and providing for their use, in improving methods of teaching and developing more adequate curricula and courses of extensive study in which

research is to be done. These evils and defects of our present system, will be directly affected by the Curtis-Reed bill.

There is nothing of more importance in our scheme of government than the education of the people. Now if education is to assume its rightful place, if illiteracy is a national peril, if millions in ignorance of our language, institutions and ideals are a menace, if our present system of education can be strengthened if the conservation of the physical well being of the youth of our land is imperative from the standpoint of national welfare, if there should be provided for every boy and girl in America a competent, well qualified teacher in order that there may be developed throughout the nation an intelligent and enlightened citizenry, then it can be said that the passing of the Curtis-Reed bill is justifiable and desirable. Thus it is not only wise, but it is the duty of the Federal government to take steps in this direction.

My second major contention is that beside remedying the present evils of our educational system, the Curtis-Reed bill will not create any new or greater evils, as has been contended by some of the opponents of the measure. The bill is a strong and good bill in that it is practicable and can effectively accomplish its purpose. The soundness of its purpose is apparent, and it is amusing to note the extremes that my opponents will go to to picture in their imagination the dire consequences of this bill. They would sometimes try to frighten us into thinking that Federal cooperation with the states along educational lines means Federal control of education. Yet the bill does not in any way, nor could it ever mean Federal control of or Federal aid to education. Perhaps a deeper study of the bill would show my opponents the folly and the fallacy of their reasoning.

My opponents advance the argument that once established the Department of Education would become more and more powerful, that it would assume control of the schools, that it would become an educational dictator, that it would centralize and federalize education and take away states rights. But the department proposed by the Curtis-Reed bill, aside from being practicable and efficient and capable of rendering great service, cannot assume powers not granted it by the bill. It cannot become more powerful nor be changed in any way without an act of Congress. Then Congress itself would act as check and

protector of the states and the citizens should this department ever have any such designs.

And the same opponents will picture in their imagination the Secretary of Education by base political motives corrupting the cause of education by becoming a political tool. Such an assumption tends toward the ridiculous. Any President would be careful in his selection of a Secretary of Education. The occupant of this position of great responsibility would stand out prominently before the people, his every act and recommendation being subject to public analysis. To begin even to do some of the things suggested would bring instant and general rebuke from the people regardless of political party. One senator remarked, that to play politics with such a position would be the poorest kind of politics. But why impugn such motives to the Secretary of Education in advance? Is not the Secretary of the United States Treasury Department appointed in a similar manner by the President? Does he not head the monetary system of our country? Is not the Secretary of War appointed and all the heads of the executive departments? Does the appointment of a Secretary of Labor put labor in politics? Refusal to establish leadership and to delegate authority because of such fanciful and imaginary fears, would make impossible the realization of the highest purposes of free government.

Other opponents of the Curtis-Reed bill will ask why it is that the present bureau cannot meet the needs; First, let us recall that the present bureau has failed to meet the needs. Also that educational activities in our various states and cities have become so large that they would not be willing to follow the leadership of a small bureau that is forced to pay its experts less than that of a high school principal. These same opponents ask why not use this money and enlarge the Bureau of Education rather than create a Department of Education. By asking this question they admit that there are evils that need remedying and that the Department of Education would remedy them, but that they had just rather meet them through an enlarged bureau. This is a point within itself that favors the bill. But an enlarged bureau or agency could never hope to accomplish what a Federal department of education will. An enlarged bureau could never give education its proper place in the Federal government, could never give it its rightful prestige. A department of edu-

cation would have one advantage of being able to work on parity with the other executive departments, which is essential if the educational activities of the Federal government are to be co-ordinated. It would be impossible to organize under a bureau of one department, the bureaus or agencies of the other executive departments. To be anywhere near as efficient as the Department of Education, the bureau would have to have power equal to that of the proposed department. The proposed department of education will be on a parity with that of the Department of the Interior, Commerce, and Agriculture. It is not right in principle or practice to have a bureau in a department with as much power as the department itself. Such conditions would be similar to the tail wagging the dog. An enlarged bureau would be more harmful and less beneficial than to leave things as they are at the present time.

Furthermore, the Curtis-Reed bill providing for a Federal department of education is economically sound. The establishment of this department will prove to be a paying economic investment. Every year our state and local governments spend \$1,750,00 for public education. If thru research and spread of information as the bill provides, a saving of only 1 per cent would result, it would mean the saving of \$17,000,000 to our citizens. For school buildings alone was spent \$268,000,000. A national committee on schoolhouse planning after a careful investigation, reported that this item alone could be reduced 5 per cent. This would mean the saving of \$13,400,000 annually on this one item. Every year one million children fail to make their grades. This involves a tremendous loss. The cost of reteaching alone runs into million of dollars. Statistics show that if our school system could become only 5 per cent more efficient, that is, to cause one more student out of twenty to make his grade that it would save us nearly \$3,000,000. Proving beyond a doubt the economic soundness of our proposition.

Moreover the bill is constitutional. It is true that other educational bills have been denounced as unconstitutional because they tended toward Federal control. It is conceded that the Federal government should not control education in the states. The writers of the Curtis-Reed bill took this into consideration and such objectionable features were omitted. Federal cooperation with the states along educational lines could, in the most

narrow sense, never mean Federal control, never bureaucratic control, never destruction of liberties. The bill will never interfere with the free and natural system of education.

In the next place the principle of the bill is sound and distinctly American. There is nothing new in the proposition. It involves no radical change, but is based upon precedent. Similar propositions have been tried out and found wanting in principle and practice. Other Federal departments have been established to cooperate with the states in promoting interests of national importance, which are certainly not of more concern to the nation than the education of its people. The Department of Agriculture was created in response to a demand from the agricultural interests of the country, not to control agriculture, but for the promotion of agriculture through research, investigation and dissemination and publication of the results on a nation-wide scale. The benefits that have resulted are apparent. The Department of Labor was created at the request of labor, not for control, but to aid labor. So was the Department of Commerce created at the request of the commercial interests of the country, for the promotion of commerce. The good that these departments have accomplished is well known. Is the growing of wheat more important than the education of our children? Is it right to deny education against its welfare and promotion, similar recognition. The establishment of the department of education would not be setting a new and dangerous precedent, but would be directly in accord with American ideals and principles of democracy.

The force of public opinion favors the establishment of a Federal department of education. We find millions of intelligent, patriotic citizens supporting the Curtis-Reed bill. Thousands of people who did not support former educational bills do support the Curtis-Reed bill because it best answers the educational demands of our country, and omits certain objectionable features of the old bills. We find supporting this proposition an overwhelming majority of those engaged in the work of public education. It is supported by many national organizations that are friends to public education. Among the organizations may be named: The National Educational Association, American Federation of Teachers, American Federation of Labor, National Council of Women, National Congress of Parents and Teachers, General Federation of Womens Clubs, Ku Klux Klan,

The Masonic Order, National of the Young Women's Christian Association, the Daughters of the American Revolution, The American Library Association and seventeen other national organizations of importance. This power and support favoring a department of education is not based upon policies or selfish gain, but it is determined effort on the part of our citizens who realize the national importance of education.

Now, Ladies and Gentlemen, the case of the Affirmative is just this: Shall the Federal government cooperate with the states for the betterment of education, without taking control or interfering with the free and natural system of education, or shall we withhold this help and assistance to education when it has long been our policy to extend this aid to agriculture, labor and commerce. The Affirmative contends for the Curtis-Reed bill, because it is desirable and practicable in that it will remedy the evils of our present system and will not create new or greater evils. I have pointed out that the bill is economically sound, right in principle, is constitutional, is based upon precedent and is favored by public opinion. On these fundamental contentions, on these issues of ever increasing significance in the real purpose of democratic education, we of the Affirmative base our arguments.

SECOND NEGATIVE

George B. Johnson, Duke

MR. CHAIRMAN, LADIES AND GENTLEMEN: Our opponents have so far this evening shown a lamentable distaste for getting down to brass tacks. They deride the advocates of states rights as habitual obstructionists; they say that they have a strongly supported bill; but they do not tell us precisely why we need such a department. They say that from the beginning of our nation the promotion of education has been a function of our Federal government, but they cannot cite us the clause of our Constitution wherein this accepted function can be found. Our opponents seem a bit peevish about those who confuse "control" of education with "promotion" of education, yet they fail to show us the distinction between the terms as applied to their bill. In only one thing are our opponents' arguments very lucid. That is where they maintain that a department of education will probably be able to obtain more money and more appropriations than a

mere bureau. Do they not here let the cat out of the bag? That's true. That's just what we fear. Federal departments, once they are created, invariably demand more and more money to run on and more money means more taxes.

Our opponents have mentioned the advocates of their bill. They have not yet told you that the bill's staunchest supporter, the National Education Association, was strongly in favor of the Towner-Sterling bill and took the Curtis-Reed bill as a second choice. This same National Education Association was among those who were so horrified at the recent episode at Trinity College, Connecticut, when a student editor was suspended for criticizing a statement by the Dean that Trinity should work to turn out men of a certain set type and pattern—men of the Trinity type. The editor said "better anything than standardization." And all the educational societies censured the authorities who suspended him. Then they turn right around and advocate the Curtis-Reed bill, the greatest step toward standardization which could be made in our educational system.

But our opponents have not mentioned Dr. Butler, of Columbia, Dr. Pritchett, of M.I.T., Dr. Penniman of the University of Pennsylvania, the National Grange, the United States Chamber of Commerce and the similar organizations in the states, besides the vast majority of the newspapers of our nation, regardless of party affiliation. All of these are against the bill, strongly against it.

The Affirmative has made a rather clever comparison of our state departments to a national department. They say that our state departments are good. Sure they are. We say they're good enough. But, as Professor Machen of Princeton says, they have made errors, glaring errors: the Oregon state laws, the Nebraska language laws, the New York Lusk laws were all bad. But what has been their fate? They were all either repealed or declared unconstitutional, and each time the courts re-affirmed the idea that the child is not the creature of the state. Federal measures of a like nature which might creep in could not be so easily repealed. The states in their very numbers offer a safeguard.

Our opponents have spoken of a clerk. Why not remove the clerk rather than create a new department?

We of the Negative do believe in looking to the future. My colleague has shown you that the Curtis-Reed bill will be a direct

step toward Federal intervention and Federal aid. Our opponents have talked of steps toward local changes and have mentioned benefits to specific teachers. Do they not hereby admit the very dangers which we hold before you?

It shall be my part to show you that the Curtis-Reed bill in itself is weak, ineffective, inefficient, and, in the second place, that, weak or strong, it will mean standardization in education.

Turning to the bill itself, we find that it delegates no real authority to the department of education. It is only a hazy, faltering, tentative step. Quoting from it, we find the proposed department is authorized to "collect such statistics and facts as shall show the condition and progress of education in the several states and in foreign countries." No power, no authority, no definite voice goes to the department.

Why, we ask you, should we create a new department and leave it helpless? All it does is investigate and make its investigations available. Now if a state desires information on educational reforms it can find all the data it wants in the files of the Bureau of Education and the educational magazines of this country. Our opponents have mentioned red tape in the bureau but they admitted that the information was there. If a state doesn't want to make reforms not all the compiled pamphlets in the world can force it to do so. And Federal pamphlets of statistics are a drug on the market already. And we are to spend a \$1,500,000 more a year to make the statistics a bit more complete, a bit more concise; then when our department is complete say to the states, "Here it is, come and get it if you wish." That is all this department can do. And we of the Negative say again to you that no state will be spurred on to educational reforms by the realization that there is more information available, when there is enough available right now.

We of the Negative definitely challenge our opponents to say that the *Ladies Home Journal* has not been a more potent factor in its educational campaigns conducted in the last twenty years than this department can ever be. And yet our opponents demand a separate department of our government for it.

Now we favor putting the Bureau of Vocational Training in with the Bureau of Education, and we'll grant our opponents their conference of departmental heads. But why can't the bureau take this \$1,500,000 and do just as well as a department?

It spends \$220,000 a year on statistics now. This bill would only increase that function five times. Our opponents have as yet failed to prove that point. They cannot do so. The bureau is rightly a subordinate part of the vast Department of the Interior with its appropriation of \$290,000,000 a year. There are three more bureau in the department spending more money than our reorganized bureau would and they do not ask for cabinet dignity.

Now one more thought: our opponents failed to explain quite to our satisfaction how a \$1,500,000 a year thrown into the struggle will do such an appreciable good to the educational system of a nation already spending over \$2,000,000,000 annually on education.

To sum up the whole matter—what will be gained by the bill? More statistics, that is all.

Let us leave that idea now and consider this proposed department as a strong department. It is not a strong department, but it may open the field and start the tendency toward a powerful department of education. If the Curtis-Reed bill is a mere screen for something more ambitious we should be suspicious of it. Once the bureau is established we fear that it won't be long before it will have plenty of money from Congress to "carry on." Our opponents suggest that this department will follow the example of the Department of Labor. We wish to call to your minds that the Department of Labor touches no local units and involves no questions of sovereignty. Will the Affirmative dare say that their department of education with a lowly beginning like the Department of Labor will, in a few years, reach the financial status of the present Department of Labor: with an appropriation of \$8,000,000 a year? Eight million dollars a year to be spent on gathering statistics? Or will our opponents compare their pet department to the Department of Agriculture or Commerce with their humble beginnings and their present appropriations of \$58,000,000 and \$24,000,000 a year.

That's just what we fear—an opening wedge and then growth into a strong department. Put education on an equal footing with other departments? With other departments spending \$200,000,000 a year? That points definitely to one thing—a strong department.

The only thing that growth and development of the department could mean would be over-organization of our school system and the creation of a bureaucracy at Washington. It

would mean scrapping the free school system of the several states and substituting in its place a Federal system of education, subsidized from Washington, regulated from Washington and all in imitation of the imperialistic methods of the old world.

With this strong department of education the Federal government would gradually and inevitably come to exercise a large measure of dictation and control. This control, vested in a cabinet officer, would, for one thing, inevitably be exposed to partisan influences. Our opponents neglect this fact. The President would probably have as secretary of education a man of his own party. I cite you President Harding's removal of Education Commissioner Claxton, a wise, able man. This one move certainly introduces the distinct thought that the passage of such a bill as that proposed by Messrs. Reed and Curtis would witness the inauguration at Washington of a vast, politico-educational machine and that, instead of attaining a higher dignity, in the councils of the nation, education may receive instead the taint of sordid, partisan politics.

And, Ladies and Gentlemen, you may be assured that our Federal government never has been and never will be willing to subsidize and seriously push financially any enterprize without retaining the right to regulate any expenditures going on and Federal regulation is only another name for Federal control.

Our opponents speak of broad policies of uplift and reform. The average term of office of a commissioner of education is nine years while that of a cabinet officer is only two years and eight months. Will not such a short term preclude the possibility of carrying out any broad, far-reaching policy?

A gift in the educational field always has a string tied to it. The Duke endowment is administered, not from Duke University, but from New York. This is even more obvious when dealing with the Federal government, an agency which is encroaching more and more upon the power of the states. The Curtis-Reed bill is a direct outgrowth of and a direct step toward the Sterling-Reed bill and the Towner-Sterling bill and is closely akin to the Child Labor Amendment. The passage of this bill would be the first decisive step toward centralized control.

It will be extremely difficult, if not impossible to keep a Federal department as a mere paper affair and to keep it from

so expanding its activities as to secure exactly the same results in the long run as aimed at by the Child Labor Amendment and the Sterling-Reed bill.

This means, among other things, standardization. There is the idea that education is an affair essentially of the government, that education must be standardized for the welfare of the whole people and put under the control of government, that personal idiosyncrasies should be avoided. According to Professor Machen this is an ancient principle and a principle that in all human history, has been inimical at every step to liberty and freedom.

Standardization does very well for Ford cars. But a human being is a person, not a machine. This idea applied to the sphere of education means intellectual as well as moral decline. That is largely the tendency today—lamentably so. Our schools tend toward machines, molds, turning out products. We challenge our opponents to deny that. The aim in a Ford car is to produce as little individuality as possible; the aim of education is not to conform human beings to some fixed standard, but to preserve individuality, to keep human beings as much unlike one another in certain spheres as they possibly can be.

When people talk about uniformity in education, what they are really producing is not something that is uniformly high, but something that is uniformly low; they are producing a kind of education which reduces all to a dead level, which fails to understand the upward gropings of the few who grasp the higher things. This degrading tendency is furthered by the present Federal activities in education and will be given a pronounced push by the creation of the proposed department of education.

Our opponents talk about "equal opportunities." Why force all the states to the same level? The state schools ought to be faced at every moment by the competition of private schools and of church schools and of neighboring state schools. Only this can give vigor to state education.

Our opponents speak of efficiency. The better their system works the less we like it. Why reduce everything to a dead level? Why make everybody like everybody else? Why make a drab, colorless world with the higher elements of human life dragged down to the rut? That's what their efficiency means—standardization.

Further quoting Professor Machen of Princeton: "If liberty and freedom cannot be maintained with regard to education, there is no use trying to maintain it in any other sphere."

REBUTTAL

Orrick Metcalfe, Swarthmore

The last speaker just spoke of brass tacks—getting down to brass tacks, and I want to ask you what brass tacks he got down to. I said we would agree we had all the evils he has mentioned and I asked him what he would do to remedy them. He has suggested nothing constructive. He has gone off on a tangent and tried to mislead you by quoting many fallacies, by referring to previous bills. Patrick Henry made a very forceful speech against the adoption of the Constitution. "You can picture the President at the head of an immense army making himself an absolute dictator of the country." Yet has this occurred? And this same pessimistic foreboding can be applied to my worthy opponent in all of his arguments. There is no Federal control of education, and in giving these people help and by educating the people to the value of it; to give their children more; to get more for their money. He gave a list of the organizations opposing this bill, among which was the chamber of commerce. Have you ever heard of any chamber of commerce favoring anything that would raise the taxes and give a dividend that would be deferred to the future? He said also that this was an entering wedge and that it would certainly lead to control in the future. I want to state over again. I said that this bill provided a sum of \$1,500,000 and unless the people of the United States wanted more than that they would only get it by a vote of Congress. If they want it, they are entitled to it; and if the people want it bad enough, Congress will give it to them.

Here is what the old bill required, and arguing that the Curtis-Reed bill would soon contain these hobgoblins, I should relate them—namely, that English be taught in the schools, that compulsory education be required from the ages of seven to fourteen, and, that there should be a minimum school period of twenty-four weeks. Nearly every state in the union has these requirements now. I should imagine if I talked to our artful opponents, each of them would certainly approve such standards

as are given in this bill. May I state here again that this department is doing certain research work but is unable to do as much as it should on account of funds.

The Department of Agriculture was in the same position as the proposed department of education. Back in 1862 when this department was formed they, the opponents, said "No, We do not want you to invade our states rights by giving us this." Yet, they have taken advantage of the great research work which the Federal Department of Agriculture has done. Millions of dollars are saved every year in driving out the wheat rust in the wheat districts and cholera in hogs, in following the information obtained through this department's research work. Millions of dollars are saved in road construction. Is not the education of our children one of the greatest industries in the country? And when more than a quarter of the population is actively engaged in it at the present time, is that not more important than any gain that would be made by driving out of wheat rust and the dollars saved on a few hogs? Are not our children and the making of life more full for them through opening up new fields of learning, more important than saving a few dollars on your hogs and wheat? I do not know that I can say much more to you in this. All I have to say is that my opponents have not been dealing with this bill at all but only the probability of what is coming. It may not be a means that will cure all evils, nothing probably would do that unless it is Father John's chill tonic or such, but it is certainly a constructive step to the future. Let the future take care of itself.

OPEN FORUM DISCUSSION

MR. HOLTON: The debate is now open for full discussion. Has anyone a question to direct to any of the speakers?

FLOOR: I would like to ask the Negative if they can cite an instance when local independence in any case has been destroyed by aid to the schools in the Smith-Hughes appropriations?

MR. PERDEW: I might explain that the Smith-Hughes law is the law which provides Federal appropriations to the states for the sake of vocational education. I do not know the full amount involved under that law nor do I know to what degree it has been effective. I have read, in considering this bill, about the effect which the Smith-Hughes bill as an analogous measure

has had. It provides that every state which wishes to have its aid must submit plans to the Federal government for the examination and approval of the plan for using the appropriation which it requests. If these plans are approved, the money is granted and spent by the state. I cannot answer the gentleman's question definitely and I would be glad to have anyone who can do so. I do not know of any specific township or county or state being deprived of its local independence in education by the provisions of this bill, but I can point out to you first that it is substantially Federal control when the state must submit to the Federal government its plans for spending the money and the Federal government may approve or disapprove as it chooses. Mr. Charles H. Judd, Professor of Education at the University of Chicago, has said that the most dangerous, inefficient and least desirable feature of the Smith-Hughes law has been the clause which has required the states to submit plans to the government in advance. I offer you not a direct answer to the gentleman's question, but I can only point out that this feature of the bill which gives a measure at least of Federal control has been the main objectionable feature of the bill from the standpoint of a learned educator such Dr. Judd. I submit it modestly and without claims as I understand it does not answer his question definitely. If anyone on the opposite side of the house can answer it, I shall be glad to have it done. If he wishes to ask the question on what effect this bill would have, I would be glad to answer it more specifically.

FLOOR: Mr. Chairman, Mr. Johnson made a statement that under this plan a new department will make no change in education. What I want to know is how such an agency as this can exist that can control all education in the United States and can standardize and control education?

MR. JOHNSON: Mr. Chairman, That is exactly what we of the Negative have tried to point out, If we are to take the bill literally, it could do nothing but collect statistics. It could not even give these out to the states. But if the department is to be strong enough for it to be of use, it must expand in some way and we pointed out that that is the way it would expand and if it ever became a strong one, that standardization would be the evil which would be introduced.

FLOOR: Mr. Johnson objected very strenuously to standardization in every phase apparently, and especially from the stand-

point of education. I would like to ask him if he would object seriously to saying that our teachers who teach in our schools should have as a minimum standard at least two years of professional work beyond the high school as a minimum requirement—would he object to that?

MR. JOHNSON: The standardization which you advocate is, I believe, a minimum requirement for teachers. Standardization there is a specific protection against people being employed as teachers in the public school who are not capable. It might happen only through inefficiency of school boards who examine these teachers. It is only through an inefficient school board that a poor teacher can get in. It is a little bit of a guarantee against them. The whole tendency in our school system today is toward turning out molds. It's making colleges into machines. When it turns out a finished product, it is certainly not working for betterment, research, deeper, finer things of life, but a specific college stamp. The incident at Trinity College, Connecticut, is that very thing. Turning out a Trinity stamp. The dean of the college said "fine." The young editor who objected, said "No, we want them all different. This world would be a drab, colorless thing if everybody were just alike. Whether this idea of standardization is applicable to a school teacher getting two years of training to teach, I should state that we of the Negative do not think that the fact that a school teacher has to take this education means that it would be standardizing school teachers. It would be an assurance that school teachers would be better, but we do not think it would in any way make all school teachers just alike. What we do say is that making all school systems just alike would be undesirable standardization.

FLOOR: The gentleman then would make no difference as to whether the requirement was made by the Federal government through a department of education or by the state?

MR. JOHNSON: If it were made by the Federal government, it would be strictly unconstitutional as no provision is made in the Constitution with regard to education. It is never mentioned, and at present if something is not mentioned, the Federal government should not come in and presume that.

FLOOR: Would you not likewise say that it would be unconstitutional to attempt to standardize anything?

MR. JOHNSON: If you say that, why can we not give the

\$1,500,000 to the board of education, as the same things will be done? Give it the \$1,500,000 and let it go on with the work.

PROFESSOR HOLTON: I suggest that the women ask some questions. They have equal rights in the audience. To keep the Affirmative from feeling slighted, I will ask them a question. I would like to ask Mr. Hamilton to explain why this Federal department of education would not take the same course as the Federal Department of Labor, Agriculture, etc. and develop until it has \$58,000,000 or whatever it may be, applying it to education in general just as the agricultural department has developed? What guarantee have we that it is going to be a novel department?

MR. HAMILTON: I wish to say that the provisions of the Curtis-Reed bill as they are at the present time will mean the creation of a Federal department of education and according to the provisions of the bill, it could not be changed except by an act of Congress. If Congress sees fit to enlarge it, as provided for by the Curtis-Reed bill, then we take it for granted that public will is behind it and that it will be for the betterment of education and welfare and property of our nation for Congress to take such action.

FLOOR: I am not quite satisfied with the Affirmative stand. I believe the Negative asked the Affirmative to show why it would not be possible for the present Bureau of Education, or maybe the different kinds of clubs, etc. which are at work now, to do the research work? I am thinking of some national and state organizations. Why is it that it will not be possible for these organizations to enlarge and do the same kind of work that the gentlemen's proposition will do? Certainly we could go on without making any radical changes if the contentions of Mr. Hamilton are true, if it provides only a research and disbursing agency.

MR. METCALFE: Mr. Chairman. I think one of the main things which you have to take into consideration here is the fact that this Bureau of Education has annually an appropriation of \$222,800 and that appropriation has probably been doubled since the time it was founded in 1869. Now if you will use your imagination you can see how much money, I cannot say exactly how much, and compare that with the \$2,500,000 that is spent today, but when you think of the development of the west and

the development of education throughout the country, you can see that it has more than doubled the amount and therefore, that we have not sufficient resources at the present time to allow the present bureau to do what it wants to do. How will you get it? The Bureau of Education is one of nine subordinate bureaus under the Department of the Interior. Many millions are appropriated every year and only \$222,800 is appropriated for education. When we look at the facts as I said in my rebuttal, and see that one-fourth of the entire population is actively engaged in teaching or attending school and when you regard that very small, insignificant sum that is used in supporting the system of education, you will see that education has not received the proper recognition in the budget of the United States. The teachers and children have not had an advocate there when the budget was formed. If you had a head of the department of education there, (it is the heads of the departments who form the budget), if there were a secretary of education, he could see that we got sufficient resources for schools. In 1918 they took a survey in some of the schools in New York city to see how many undernourished children there were. Seventy per cent were undernourished. This research work was done by the Bureau of Education and had been done on application of a very powerful political organization. They found out the percentage of illiterates and also methods of decreasing illiteracy. To be able to print and disseminate this, it had to be O.K.'d by the head of the department. They took the information and when it was turned back to them they found that they were unable to publish it and help to do away with undernourishment in the children. This organization was quite strong, and it brought a pressure to bear and wanted to know why the report had been suppressed. A clerk in the Department of the Interior, a \$2200-a-year clerk, for his own personal reasons thought it might aid the Germans. It would encourage them and have their morale raised against the American army. This report did not come to the attention of the Department of the Interior at all. The insignificant clerk struck off all of this work that had been done by the committee. Such things are constantly being done. Education is so far submerged that it is very insignificant and does not receive the recognition that is so essential and vital to our national need. You see you have to take into consideration that this is indirect.

It is not direct. It is of value just as the knowledge given out by the Department of Agriculture helps. You cannot force it on the people but if you tell a farmer that by using certain vaccines he can save hundreds of dollars on hogs or if he uses certain sprays he can save hundreds of dollars on wheat; and if you can show the people of the United States that education has a prestige by having a member in the President's cabinet, it was not given in the Constitution but the President needed their direct representative at his hand, for all of this is the case, you can readily see that we need education recognized as such and as one of the greatest things in the country and one which is given every bit of prestige that could possibly be afforded.

FLOOR: Do you consider the appropriation provided for in the present bill sufficient to make a strong department to control education?

MR. METCALFE: I cannot answer in my own words but I had rather use the opinion of certain of our greater educators, Dr. Strayer and Charles Mann. These men drafted this bill and when it was drafted that sum was specified as being enough money to carry on such research work as the states were now asking. What sort of information do they want? One illustration is that the State Superintendent of Education in Montana who was trying her best to get some information on the financing of rural schools in the east. She could not find the information. It had been collected by certain private institutions but there was no central agency where this was brought together and could be disseminated. That is the need for this information then, and this committee which drafted it found out that this \$15,000,000 would be sufficient to carry on the research work and also provide enough funds to go completely over the entire field every five years and make a thorough report on everything. To tell what systems are used in Colorado, are used in Maine, Minnesota and all of the different progressive plans that were being started everywhere in the country. You are not able to get hold of all this in a concise concentrated form and this sum was specified by these experts to cover this material.

FLOOR: Mr. Chairman. I would like to ask Mr. Perdew a question in regard to the officers training schools which are carried on in the different colleges and universities. He states

that they are the only part that the government takes in education. Does he not consider it a great aid in education, and that the men who attend these schools are some of the finest examples of manhood and representatives of college ideals that are turned out?

MR. PERDEW: I beg to differ with you that I made such a statement as the one you attribute to me as saying that the R.O.T.C. (that is the type of Federal military training) is the only aid which the government is giving the schools and colleges. I cited it as a typical example of Federal control in institutions which have no other connection and have no justification for such a connection as this. As to the benefit which that training gives to the men, I have very decided opinions. I cannot give them all in the few minutes that remain. In my mind if good men are turned out where compulsory military training exists, they are turned out in spite of it. I know of nothing so depriving of personal initiative as the uniform stamp and law of obedience which placed upon anyone who goes under R.O.T.C. regulations. I maintain that the student who goes to college for an education needs neither the drilling nor training in order to prepare himself to serve his country. That may be taken as a very radical stand. I am a pacifist, and I don't mind saying so. I maintain in connection with this department of government activity, that to dictate to the colleges in order to compel them to give to the government an army and supply officers for the war department, to dictate to those colleges and universities what the men shall study, when they shall study it, and what credit shall be given, is a violation of the academic freedom of our schools. I blame the universities for submitting to it, for their lack of incentive or insight. The universities for the sake of those things and for the sake of ideals of militarism held by the advocates, for the sake of these things, that the universities should allow the war department to dictate to them, is very unwise and entirely contradictory to the spirit of freedom which our colleges should be attempting to foster. It is Federal control which is obtained as the price of aid to the universities in one case and the price of Federal subsidies to state schools in the other case.

FLOOR: I would like to ask Mr. Johnson if 35 per cent of our public funds are engaged in the business of training our

future citizens, is it not of sufficient importance to have a seat with our national council?

MR. JOHNSON: I understand from that statement that the educational field activities constitute 35 per cent of the expenditures. I want to point out this fact. If we want to put a department of education on an equal footing with the other departments which spend \$270,000,000 and \$57,000,000 and sums like that; if we want to do that, will it not go beyond this modest \$1,500,000? Will it not step up into the big figures? According to this comparison it should have \$300,000,000. We say "No, a department of education should not have this \$300,000,000 when all it wants is \$1,500,000. It could not spend that much collecting statistics, but that is the issue in the debate. They have said that the reason the present bureau could not do good work was because of the lack of funds. They have talked about dissemination, yet the proposed department cannot disseminate the facts it finds. Compiling statistics is quoting specifically from the bill in so many words. They have talked about a clerk. Would it not be easier to remove a clerk than to create a new department.

FLOOR: I do not think Mr. Johnson has answered my question, is it of sufficient importance for a Federal government to create a special department of education?

MR. JOHNSON: We do not think it is a Federal concern. We think it is a state concern. If we say it is a Federal concern we state something that is not stated in our Constitution, and any right that is not stated in our Constitution, and any right not definitely given is not a Federal concern.

FLOOR: I would like to ask Mr. Johnson if the right could not be granted under the general welfare clause?

MR. JOHNSON: I have no very definite ideas about the general welfare clause, but we are of the definite opinion that the general welfare of our nation is progressing very nicely under state control. We think our people do have an idea of what education means to them, and we want to guard our progress against a number of dangers, one of these dangers we have pointed out, having our schools made into a mold.

FLOOR: The Negative pointed out that this new department could do nothing but collect statistics and that one defect is that it would place the Federal government in control. If it can do

nothing but gather statistics, how can it get absolute control of the government. The two points cannot be reconciled.

MR. PERDEW: Mr. Chairman. That question was perhaps put to my colleague but he has been much overworked this evening and I will attempt to answer the question if that will satisfy the gentleman. I believe I pointed out early in my remarks that there are two interpretations which anyone considering this measure can put upon it. The bill is nothing more than it seems to be, that is, a reorganization of the Bureau of Education, adding to it, giving it more appropriations, etc. Or they may take the other viewpoint that this is but an entering wedge, the beginning of something which will grow because of certain superior forces into a department which has Federal funds in its control. I do not believe it is inconsistent for one of the Negative to put one interpretation upon it and the other on the Negative to put the other. I think that the two points of view are not inconsistent. We say that this bill gives no power but to get information together and disseminate it to the country and we are pointing out that the bill is for this reason insufficient, inadequate and unnecessary, and I, personally, for the sake of showing that it has not a solid basis, stated that it would lead to Federal appropriations such as were proposed in the former bills which have been advocated. I believe that the two points of view are not inconsistent; yes, and that we are not trying to evade the issue by arguing both of them. In fact, it seems to me that we are giving you all sides of the question. We are giving you two solutions for this which you may choose in solving the bill, neither of which can give you a sound basis of the question. I trust I have answered the question to the gentleman's satisfaction.

FLOOR: I would like to ask the gentlemen of the Affirmative if they do not believe that education would be better promoted by leaving it as one of the very few duties still left to the states instead of making it one of the many functions of the Federal government?

MR. HAMILTON: In response to the statement, I would first like to make a few introductory remarks. The gentlemen of the opposition have attempted to prove one thing and have succeeded in proving another. They have led you off on a tangent and have left the major issues. I would like to sum up the con-

tentions of the Affirmative. Without attempting to control education by giving aid, shall the government withhold this aid which it has extended to agriculture, labor, and commerce? It is upon these major issues that the Affirmative rests its contentions. We have shown you that the Curtis-Reed bill would remedy the educational evils that exist at the present time, that it is economically sound and this point has not been refuted nor refutation of it even attempted. It is right in principle and we have tested its constitutionality; it is based upon precedent, and has the support of public opinion. None of these arguments have been answered. They have discussed the possibilities of this bill in existence. The bill does not provide for any Federal control. They say that Federal aid means Federal control. They are looking into the future, too far into the future.

MR. JOHNSON: Mr. Chairman. I thought the debate was over but since Mr. Hamilton has reviewed it, we might as well also. I wish he might have answered the question you put to him. Our opponents have said that the Federal department of education should be put on a firm, safe foundation. They have utterly failed to show us here this evening why this bureau could not do just as efficient work with this money added to its resources. They have failed to meet a number of issues. We have shown them that if a Federal department is to be made a strong department that it will need very much more money. We have pointed out to you a number of times that it will be making it a strong department with the power to go out and have Federal control. They have said that this department is favored by a large number of people and lots of national organizations. We have had a number of bad laws in the states and these bad laws have been repealed or declared unconstitutional, for instance, the Nebraska language laws, the Oregon state laws and the New York Lusk laws, but they have all been repealed. These bad laws have been declared unconstitutional many times. Nearly every time the state courts have affirmed and reaffirmed the contentions that such laws are unconstitutional.

MR. HOLTON: I suspect these gentlemen could talk all night and we might listen, but the time is up, and you must vote according to your convictions at the present time. If you believe that the Curtis-Reed bill, as described by the Affirmative, providing for a department of education should be approved, you

will vote for the Affirmative. If you believe it should not be approved, then you will vote for the Negative. I won't ask you to write these votes; I will give you an opportunity to vote by a show of hands. When I was teaching in the public schools, I always asked the grammar grade children to shut their eyes to avoid following the vote of someone else. I won't ask you to shut your eyes, and certainly don't want you to shut your minds, but I will ask you to make up your mind definitely one way or the other insofar as you can make up your minds at the present time as to whether you believe with the Affirmative or the Negative so that the response will be almost automatic when I call for it and will not be influenced by someone else. I will ask Mr. Herring to count the votes on this side and Mr. Proctor the votes on the other side. Those who believe that the Federal department should be created raise their hands? Those who oppose it will now vote by show of hands. The vote stood twenty-one for and fifty-one against the resolution.

The Negative seems to have the advantage in the opinion of this discussion.

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CHAPTER IV

GOVERNMENTAL RESTRICTION OF INDIVIDUAL LIBERTY

UNIVERSITY OF CALIFORNIA

versus

OHIO WESLEYAN UNIVERSITY

RESOLVED: *That the present policy to extend the governmental restriction of individual liberty should be condemned.*

This is a stenographic report of an intersectional debate between an Affirmative team representing the University of California and a Negative team from Ohio Wesleyan University, held at Wheeler Hall, Berkeley, California, Thursday, February 4, 1926, at 8 P.M. This debate was one of a series in a tour undertaken by the Ohio team, and was, hence, a challenge from them. It was a straight three-judge decision, the verdict being unanimously in favor of the Ohio team. The styles of debating represented by the two teams differ, that of the Ohio team being the usual formal style, while California adopted, as for several years past, the manner of a free discussion. This report, also the Affirmative brief, and the bibliography, was furnished by Professor E. Z. Rowell, Forensic Advisor and Coach of Debate of the University of California, and Professor J. T. Marshman, Department of Oratory, Ohio Wesleyan University.

BRIEF

GOVERNMENTAL RESTRICTION OF INDIVIDUAL LIBERTY

AFFIRMATIVE

- I. Confusion exists regarding the meaning of the term individual liberty. A historical survey is necessary in which we see that
 - A. Rousseau's ideas influenced early America.
 - B. And early America was primarily individualistic.
 1. The population was sparse.
 2. Living conditions developed independence.
- II. America has become collectivistic.
 - A. The population has increased.
 - B. The very theories of life itself have adopted the social point of view.
 - C. Government is reaching more and more into the private life of man.
- III. The proposition is a question of balance.
 - A. The framers of our Constitution intended that individual rights should be respected.
 - B. But the courts and other means have overridden these rights because of
 1. Public safety.
 2. Public health.
 3. Industry.
 - C. Man must be viewed only as a social animal.
 - D. As such he is the important element of society.
 - E. And Society should maintain a proper balance between liberty and restraint.
 - F. We plead for an adjustment of that balance.

IV. There is a field in which society, for its own good, should find it unwise and unsafe to indefinitely interfere with individual liberty.

- A. This new group must look to its component parts, the individuals who make it up, for its success.
 1. It is merely analogous to that of considering the body and all of its parts.
 2. It is similar to a consideration of any committee or cabinet in relation to their members.
- B. This new group must grant the individual his responsibility and recognition if it is to succeed.
 1. Those two things mean individual initiative.
 2. Those two things mean individual freedom.
 3. The instance is exactly similar to that of another group, the family, in which
 - a. It is found that too much obedience destroys other quite necessary values, such as
 - (1) Responsibility,
 - (2) Initiative, and
 - (3) Recognition.
- C. It is not a question of whether society has the right to interfere wherever it likes, but
- D. Whether, having that right, it is wise and expedient to interfere beyond a certain point.
- E. The whole thing is a question of balance, in which
 - i. Social protection must be weighed against individual responsibility and recognition.
 - a. If more of the former is granted by a piece of legislation than liberties taken away, then all is well and good, but
 - b. If more liberty is taken away from the individual then social good is brought about, then it is harmful.
- F. The government is today tending more and more to interfere with individual liberty, to take away individual recognition, and to deny individual responsibility.
 - i. The Tennessee anti-evolution law hinders scientific and intellectual progress, though it does do some good.

2. The Blue Laws are violating the principle that morality is born of virtue and responsibility, though they tend to improve morals.
3. The prohibition law is denying men the right to say for themselves whether they should or should not sympathize with any such legislation, though it pretends to protect public morals.

G. These suppressive and restrictive measures are bad.

1. They are undermining all individual liberty, which
 - a. Is at the very basis of the new social groups' success.
 - b. The good granted by them does not outweigh the harm which they have caused.

V. The method of governmental restriction of individual liberty tends to defeat its own purpose.

- A. In the fields of thought suppression has merely stimulated the spread of the ideas it sought to stamp out by causing a social reaction against itself.
 1. The suppressions on the California campus have been spread all over the state, whereas the acts which they sought to suppress would never have been heard of.
 2. The law in Tennessee has stimulated the study of evolution.
 3. The history of the rise of Christianity, of Protestantism and of the splitting up of the church into countless sects is the history of the triumph of the suppressed.
- B. Attempts to regulate habits and actions have reacted against those who sought to suppress.
 1. The prohibition law has made drunkenness popular.
- C. The only sound method of social reform is education.
 1. The acceptance of a law by the people is the first prerequisite to its success and education is the way to win its acceptance.
 2. Popular acceptance of a moral principle often establishes it without the necessity of law or force.

NEGATIVE

- I. To condemn the policy of extending governmental restriction of the individual would be dangerous.
 - A. This policy has been made absolutely necessary by the increasing complexities of our modern society.
 1. We have changed since 1787, from a small agricultural people of a few million in population to a vast agricultural and industrial nation of over one hundred million people.
 2. Whereas, fifty years ago, only 15 per cent of the people lived in cities, now over 50 per cent live in the city.
 - B. As a result of these complexities, friction is bound to arise among individuals.
 1. The whole purpose of the policy of restricting individual liberty is aimed at the alleviation of this friction.
 - a. This policy has developed alongside of and grown with the increase in complexity of national life.
 2. As a result, we have restrictions which George Washington wouldn't have thought necessary.
 - a. Speed laws.
 - b. Pure food laws.
 - c. Ordinances regulating individual acts.
 - (1) A century and a half ago a man in New York could build a bonfire in his own back yard, but, if he did it today he might imperil thousands of people.
 - C. To condemn these laws would be dangerous to the welfare and prosperity of the American people.
 - II. This policy has been beneficial.
 - A. There has been a tremendous improvement in laboring conditions.
 1. The workingman has worked hard to gain this improvement and the government has helped him by restricting individual liberty.

- a. It has passed laws for better working hours, for workmen's compensation, and for regulating child labor.
- 2. To condemn this policy would be to discourage the workingman.
 - a. Such discouragement would provide fruitful soil for the growth of bolshevism.
- B. This policy protects the American businessman.
 - 1. From destruction by monopolies and trusts.
 - 2. From interference by outside influence.
- C. Our whole business structure is based on it.
 - 1. President Coolidge has said that if it was not for the fact that the government was protecting business and the people knew that it was doing so, the value of the tallest buildings would shrink to what is now the price of a corner lot in the ancient city of Babylon.

III. This policy does not take away the rights of the individual but tends to make these rights more secure.

- A. The very form of our government makes it impossible for this policy or any other to take away the sacred rights belonging to the individual.
 - 1. They are guaranteed to him by both the Federal and state constitutions.
- B. The government provides the agency of the courts to protect these rights.
 - 1. The courts are very active and zealous in protecting them.
- C. This policy checks one of the most serious evils of today—the menace of excessive individualism.
 - 1. The government checks individual rights only when the individual tends to put his own rights and interests over and above the rights and welfare of his fellow citizens.
 - a. We have always had to deal with this excessive individual.
 - 2. It is excessive individualism which has made necessary the restrictions on individual liberty.

- a. It is excessive individualism that breaks speed laws and causes thousands of deaths each year.
- b. That causes strikes resulting in suffering and losses to the American public.
- c. That charges more than a fair profit, and puts its competitors out of business by unfair methods.
- d. That crazes itself with drink and becomes a menace to family, friends and neighbors.
- e. That claims the right to impair the future health of our children by working them long hours under unhealthy conditions.

IV. This policy to extend the restrictions on personal liberty meets the conditions found in this country, and has done more good than it has harm.

A. In the field of ethics.

- i. In spite of the difficulty of enforcing it, the prohibition law has removed the evils of the saloon from the American people.

B. In business.

- i. Through restriction of individual liberties giant monopolies have been checked, fair contracts have been executed, and the distribution of wealth has been preserved.

C. In education.

- i. Our laws compelling school attendance, have set the highest standard for education of any country in the world.
 - a. Consequently, the American people are prepared for the educational and political leadership of the world, which we so much desire.

D. In the social field.

- i. The syndicalism laws are protecting our society and the individual against Russian propaganda which threatens the foundation of our governmental structure, and strikes at the principles incorporated in our American Constitution,

E. In the field of traffic regulations.

- 1. It has been beneficial in providing safety for the individual in spite of increasing congestion.
- F. We have just experienced this last year our greatest national prosperity.
 - 1. We have had it while this policy to extend restrictions of individual liberty was in progress.
 - 2. Conditions are better than they have been perhaps in any other period of our history.
- G. President Coolidge said:
 - 1. "The country does not appear to require a radical departure from the policies already adopted so much as it needs a further extension of those policies and the importance of those policies in detail."

GOVERNMENTAL RESTRICTION OF INDIVIDUAL LIBERTY

UNIVERSITY OF CALIFORNIA

versus

OHIO WESLEYAN UNIVERSITY

PRESIDING OFFICER

Professor F. M. Russell

It is the privilege of the chairman of the evening to welcome this peaceable invasion of the gentlemen from Ohio. Invasions ordinarily are thought of as being wrought with dire consequences to the invaded country. We think of armed hosts and military conquests. But I assure you that the gentlemen of Ohio, if that is necessary, have no such intention as far as this evening's contest is concerned. They are disposed, however, to entertain us with a conquest of ideas, and, of all places, I suppose a university community is best fitted to emphasize that particular kind of a conquest, because a conquest of ideas, after all, leaves no stain, no bitterness, no resentment. Indeed, it may be the basis for future intellectual understanding and affiliations of one kind or another. So it is with a peculiar satisfaction and with pleasure that I welcome these ambassadors of friendly controversy this evening. We grant them full faith and credit as citizens of that great state beyond the Mississippi River. We accord them full privileges and immunities likewise. I suppose, if there was any restriction which anyone would be inclined to offer this evening, it would be that we are not to allow them to win the debate. So you see how much more moderate and generous we are than the senators of the United States in that respect.

The question which has been chosen for this evening you will find on your programs, as follows: "Resolved, that the

present policy to extend the governmental restriction of individual liberty should be condemned."

The affirmative of this proposition is to be upheld by the debaters from the University of California, Miss Aileen A. McCandless, Mr. Edwin J. Duerr, and Mr. Philip S. Broughton.

Ohio Wesleyan University defends the negative of the proposal, represented by Mr. John S. Pyke, Mr. Arthur Flemming, and Mr. Hurst Anderson.

We are glad that both institutions are represented by the debate coaches, Professor Marshman being present from Ohio Wesleyan University.

The judges for this evening are Mr. Edgerton, president of the East Bay Water Company; Judge Sewall, of the California Supreme Court; and Mr. Clyde Seavey, a member of the Railroad Commission of the state of California. Each speaker will have ten minutes for the main presentation, and will then be accorded five minutes for rebuttal. I am asked to anticipate possible surprise on the part of the audience should some gentleman arise near the front at some time during the debate. You are not to take it that anything discourteous is likely to occur, but simply that these gentlemen are reminding the speakers that perhaps they are passing the time limit.

The debate, then, will be opened by Miss Aileen A. McCandless, of the University of California.

FIRST AFFIRMATIVE

Aileen A. McCandless, California

The question before us this evening is whether or not the Statue of Liberty at the entrance to our country is a symbol of what is, or a memorial of what has been.

Nowadays, people use these words "personal liberty" so glibly that their meaning seems to be taken for granted. For instance, on one page of a newspaper you will read an editorial warmly defending the anti-syndicalist law, and in the same paper, on another page, there will be a scathing denunciation of the monkey doings in Tennessee. There is, you see, a difference as to what personal liberty really is, and the first question we must consider is: Does personal liberty exist as such? So to get a better view of this preliminary problem, let us go back into history.

You will remember that Rousseau was one of the first to defend the rights of man, and remember how those doctrines were received. Even the ladies of the French court hied themselves off to the simple country life, where they milked cows and ate strawberries off the vines, in an effort to be natural. And so the idea of liberty advanced, and soon thousands looked to America as an El Dorado of individualism. America was the land of the pioneer, who relied for success on his strong right arm. His occupations, trading, farming, and so forth, developed this dependence of character; and his life, in which he built his own boats, raised his own sheep, spun yarn and wove cloth, made him a complete economic unit. His nearest neighbors were miles away. He had never seen a large city or a factory. The story of the man from Arizona stresses this point. On hearing that the railroad was to pass within sixty miles of his farm, he said bitterly to his wife, "Well, I guess our days of privacy are over."

But those days are gone forever. That romantic and heroic picture of the pioneer is no longer a reality. The citizen has become dependent on the community and nowadays the government regulates our banks, helps to raise our babies, appropriates part of our income, examines our food and inspects our cows, prescribes what must be put in bottles, and some things that must be left out. About the only thing a man can still do for himself is to spin his own yarns.

Now this shift in the scheme of things is exemplified in the very theories of life itself. Some writers have said that man is just an atom in the social mechanism without manifest functions of his own. They used to preach the religion of God, but now our preachers preach the social gospel. Moralists claim there is no longer individual morality, but that all is social. And some psychologists say that man has become wholly a social animal invaded by social fears. The saying is that man used to be concerned in saving his skin. But now man's chief concern is to save his face!

And so in the short space of one hundred and twenty-five years has this great change come about—this change from relative isolation to social cohesiveness, from self-dependence to social dependence, from individualism to collectivism.

Now the cause is simple. The rise of collectivism which means the condition in which the many restrict the individual

for the common good, including his own, is not needed by an agricultural or nomad people. But, when thousands are crowded into close quarters, when the total number of men in a single factory is larger than the population of several states in 1800, close attention to collective welfare is necessary. Many things have brought about this concentration of population which is responsible for the rise of collectivism.

Now the individual in this ocean of society is barely keeping his head out of water. And yet the framers of our Constitution meant for him to have no such submarine adventures. You remember that the Constitution was adopted only with the provision that a Bill of Rights be appended. This document stated that no individual was to be deprived of life, liberty or property, without due process of law. These rights were regarded as substantive, never to be touched by subsequent legislation. But instead of settling things once and for all, this scrap of paper has caused more damage than can be told.

The theory has been that there was no due process of law by which these rights could be taken away but can you name a single one of them which has not been violated hundreds of times? The attitude of our courts is a case in point. Through the injunction, and in the regulation of interstate commerce, they go on overriding these rights in the interest of public safety, health, and industry.

Now what is the conclusion? The conclusion is that in our day, whether you approve the study of mankind from the point of view of our concrete everyday relationships and conditions, or from the point of view of the social and other sciences, or from the point of view of legislation and judicial practice, man is inevitably viewed as a social animal and his life must be studied from only that angle.

Now this begins to appear as if we of the Affirmative were giving up our side of the case entirely. You say, if we admit that the social consideration is the most important, how then can we uphold personal liberty? Well, we haven't given up yet. All we have done is to show or attempt to show, if you please, that the social consideration is inescapable: and we have done so for two reasons: first, out of respect for truth; and second, to show clearly that these so-called rights are not things static and immutable, not a field to be discovered as an

explorer finds and names a new land, not a field of jurisdiction to be guarded and fought over by devotees of a particular cause, but rather an extremely subtle, delicate problem of balance in relationship.

We of the Affirmative are not here to stand guard over someone's private property. We are here to plead for an adjustment of that balance which exists between society and the individual. We are here to point out what must be taken into consideration before we can decide what degrees should be maintained with regard to mass action and private initiative, with regard to obedience and responsibility, with regard to liberty and restraint.

In admitting that the social point of view is inescapable, that there is no distinct field of personal liberty as such, we are simply admitting that the advocate of individual liberty must adopt a new way of looking at things, not that he must give up his cause.

Accordingly, we wish this evening to show that, although in an entirely new way, this problem of individual liberty still exists, that it is never wise to submerge the individual so that the values of his individuality and personal initiative are lost, and that it is to the highest interests of society that it preserve those values, and let them operate, and that it is hopeless for society to try to take all from the individual and expect the social whole to prosper. We intend to show that not only is it unwise for society to neglect the individual but that the history of suppression shows it has never worked.

FIRST NEGATIVE

John S. Pyke, Ohio Wesleyan

LADIES AND GENTLEMEN: I am sure we are very glad to arrive in the upper regions of California. We did spend considerable time in Los Angeles, and we were very much disappointed with that city. We were told before we started that they were going to have an earthquake for us when we got there, but nothing phenomenal whatsoever happened. They refused to have their earthquake. And so we came to San Francisco. Instead of having an earthquake for us, they have a washout.

We had the pleasure of eating dinner with our opposition this evening at a delightful little banquet arranged by the Debating Council of the University of California, and we were very much impressed with one particular aspect of our opposition, the fact that they have a great store of wit and humor. We feel this will be a sorry spectacle this evening. We fear we can't measure up to them at all. At home they call us the three witless wonders of the world. We had the pleasure of meeting Mr. Broughton the minute we got off the train. He has kept us laughing ever since that time. Mr. Duerr, I understand, is one of the associate editors of the college magazine. We expect him this evening to reel off joke after joke. As to Miss McCandless, there is an old adage that a pretty woman is rarely clever. Miss McCandless even violates that. She is both.

We feel this evening that we are at a disadvantage, but we will try to present our case in regard to the question whether or not the present policy to extend the governmental restriction of individual liberty should be condemned.

Miss McCandless says we have entered into an era of socialism and collectivism. She uses such big words that I can hardly pronounce them. She says the individual is barely keeping his head above water. I agree with her. We have had a hard time since we have been in San Francisco.

I intend to take up the theory that she has submitted this evening, and show you how absolutely necessary that theory has become. We believe to condemn this policy to extend the governmental restrictions of the individual would be dangerous. It would be dangerous because this policy has been made absolutely necessary by the increasing complexities of our modern society. About forty years ago there wasn't a bathtub in all the state of New Hampshire. Today there are many. Society is becoming increasingly complex. Back in 1787 we were a small agricultural nation of a few million people, lying along the Atlantic coast. Today we are a vast industrial and agricultural nation of over one hundred million people, extending from the Atlantic to the Pacific. This rapid growth has caused a tremendous change in conditions. People are crowded together and forced to live in the great industrial centers of our cities. Only fifty years ago 15 per cent of

the people lived in the cities, and today we find that over 50 per cent of the people live in the city. As the result of these increasing complexities of our modern society, friction is bound to arise among individuals unless we restrict those individuals. The whole purpose of this policy is aimed at the alleviation of this friction, in order that the individual may have an even greater freedom than he would otherwise enjoy.

As our country has developed, we have found this policy developing side by side with it, growing in restrictions as changed conditions have demanded it, and as society has become increasingly complex. As a result, we have restrictions today which George Washington wouldn't have imagined necessary. In 1787 they didn't have any speed laws. The fastest rate of speed they knew was eight miles an hour. Yet today, speed laws are absolutely necessary for the safety of our populace. We didn't need pure food laws one hundred years ago. A man raised in his back yard all he needed to eat. Today, when our food comes from thousands of miles away, we must know that that food conforms, in purity and quality, to governmental standards. A century and a half ago, a man in New York could have built a bonfire in his back yard, and no one would have objected; but today, if he did that, it would imperil the lives of thousands of people. This policy has been made absolutely necessary by the increasing complexities of our modern society. We believe to condemn this policy, while the complexities of society continue to grow on into the future, would be dangerous to the welfare and prosperity of the American nation.

Let us take an ordinary example of the condemnation of this policy: suppose, for the sake of argument, that we condemn the traffic laws. Let a man drive down the street as fast as he wishes, park on either side of the street, obey no restrictions whatever. Then let five hundred thousand people do that. No, you know that you wouldn't attempt to condemn the traffic laws. Yet our aeroplanes are in about the same condition of development as the automobile was twenty years ago. Twenty years from now we may need to restrict the aeroplane as we do the automobile today. Yet such restrictions would be absolutely impossible if we condemn this policy to

extend restrictions over the individual. It would be a fundamentally dangerous step.

Let us take a more broad and general example of the condemnation of this policy. In the last fifty years there has been a tremendous betterment in laboring conditions. The workingman has toiled hard to achieve this improvement. The government has aided the policy of restricting the individual. The government has required that the employer create better working conditions, has passed the eight-hour-day law, workingman's compensation laws, and child labor laws. The workingman has taken great pride in this policy. As the late Samuel Gompers said in 1923 labor convention, "We expect great things in the future of this policy, and believe a new era for development has just begun." And yet the opposition would have us believe that we should condemn this policy, stop this development, and rob the workingman of the fruits of a half-a-century's struggle. What would be the result? It is obvious. A discouraged, discontented laboring class, a laboring class ready to receive with open arms the already active bolshevists and communists who promise a relief from the government which would have failed them. As the editor of the *New York Times* recently said, "Every American of sober sense realizes that bolshevism in America springs only from the soil of discouragement and despair." You and I don't want bolshevism. You and I don't want to stop the improvement in labor conditions. Yet that would be the ultimate result of the condemnation of this policy.

However, don't let us leave the impression that the policy benefits labor at the expense of the employer. This policy protects the business man of America, protects him from destruction by monopolies and trusts, protects him from interference by outside influence. In fact, our whole business structure is based on this policy of the restricted individual. As President Calvin Coolidge said only two months ago before the New York Chamber of Commerce, "If it were not for the fact that the government was protecting business, and the people realized it was doing so, the value of the tallest buildings would shrink to what is now the price of a corner lot in the ancient city of Babylon." And yet the opposition would have you believe we must condemn this policy.

They must take into consideration the good effects of this policy. It is not enough to point out evil effects here and there. They must prove to us that the evil effects overbalance the good; that this policy does more harm than it does good.

We believe this policy is going in the right direction. We believe so because the policy has been made absolutely necessary by the increasing complexities of our modern society.

SECOND AFFIRMATIVE

Edwin J. Duerr, California

Right from the very beginning we've been taken for wits and humorists by our opponents; and so perhaps we can graciously say now that the argument tonight will alternate from the ridiculous to the sublime at all times. Our opponents have so far been quite sublime, although they probably will not be so sublime as to agree with us on every point. The first speaker of the Negative has been sublime in that he has agreed with a lady, the first speaker of the evening. That does not often happen. But he has found it quite necessary to agree with us upon the importance of society as a new social group.

Proceeding, then, upon that point, it is my purpose, as the second speaker for the Affirmative, to claim that there is a large realm in which this new group, society, should find it unwise and unsafe for it own good to interfere with individual freedom beyond a certain point.

It is at once relevant and quite necessary to ask of the new group to what it must look for its success and well being. In spite of what my opponent has said and, strangely enough, in spite of what my colleague has said about this new social group, it must be made clear that it can only be made a successful group according to the amount of recognition that is accorded to the individual, and the amount of responsibility that is granted him.

Society must consider the individual at all times. The situation is merely analogous to that of the body and its parts. It is absurd to say that it does not matter if my finger is infected, as long as the body as a whole is all right. It is merely analogous to the case of a committee or a cabinet. It would be absurd to say it makes no difference who is on the

committee, or who composes the cabinet—that it is just the whole that counts.

Surely this point is readily granted; it is rather too obvious for discussion. But when you grant me that point you ask immediately, and rightly, what does this individual responsibility and recognition mean? It means just this: individual initiative, some sort of individual freedom, however necessary it may be to revise our approach to it in view of the importance of the new group today.

Let me take up a group that is familiar to all of you to explain this point. Supposing two parents, on the day of the birth of their first born, should decide that obedience would be the one thing that they would teach that child. It would be a sorry child. The parents would say, "Don't do this" and "Don't do that!" And after a time they would find out that they had an obedient child, but that is all that they would find they had. They would discover that they had exacted obedience to the loss of other values. They would find that the child had no initiative, that it had no sense of responsibility, and that it was not a recognized part of the family. They would learn that if their commands were tempered, and that if the child were left to find out some things for itself, all would be well.

You see the success of the group depends not alone upon obedience, but upon the retaining of other values as well. And certainly too much obedience and persuasion do away with the other necessary values.

Perhaps you have heard the story of the little daughter of two such parents. On her first day at school, her teacher asked her her name, and she replied, "Alice Don't." If, then, you agree such suppression is bad for the family, you must say it is much more serious in this larger and more important group which we are discussing. There is no rightful reason for calling a fellow citizen "Comrade Don't!" You must grant the individual freedom, if you are to recognize him and give him his responsibility. The two things are regular Siamese twins; you cannot possibly separate them.

But the government today is tending to interfere more and more with individual freedom, is tending to take away from him his rightful recognition, and is tending to deny him re-

sponsibility. When it takes away those things, it involves itself in a vicious circle in which it can make no progress. It is not robbing Peter to pay Paul; it is not robbing the individual for society's benefit. It is robbing both Peter and Paul.

We know and admit that society has the right to interfere wherever it likes. But it is not a question of rights, but one of wisdom. It is not a question of whether society has the right to interfere wherever it likes, but whether, having that right, it shall find it wise and expedient to exercise it indefinitely.

None of us can say, offhand, that this or that individual act harms society and therefore must be suppressed. It is a difficult problem to decide. In all suppressive legislation there are consequences which make it a tainted blessing in many instances. Such legislation should always be weighed to see whether it is, in itself, good or bad from the social point of view.

The whole matter comes down to this: there is a realm, a field which is never exact or stationary—not perhaps a field or realm where liberty belongs, but one in which this problem is especially real and relevant—a realm, nevertheless, where society should find it unwise and unsafe to interfere with individual liberty indefinitely.

The whole thing is a question of balance. Social protection must be weighed against individual recognition and responsibility. If any legislation grants more social protection than individual freedom it takes away, all is well and good. But if it takes away more individual liberty than social protection it grants, then something is, or will be, rotten in the state of Denmark.

And one can more than sniff something rotten when examples of recent legislation are examined. All the recent enactments are doing more harm than good. Consider them very briefly. The anti-evolution law in Tennessee aims at a moral and religious safe-guarding of the youth of that state. But it hinders scientific and intellectual initiative and progress, without which everything must decay. The so-called blue laws try to improve public morals. But they violate that sound and known principle that morality is born of virtue and responsibility, and the individual right to exercise choice. Consider

the prohibition law, one of our most spirited subjects. It tends to better public morals and to do away with poverty. But at the same time it denies the individual the right to find out for himself whether he will sympathize with it or not. And no legislation can succeed without that sympathy.

You can plainly see from these examples, significant ones, that the government is today taking away more individual liberty than social good it is granting. These laws are insidiously undermining the individual's personal liberty. And when they do that they begin the destruction of all individual recognition and responsibility which is the very lifeblood of the well being and progress of this new group we are discussing, namely society.

That is all the Affirmative want to point out to you. The point is that the government, that society, by its actions restricting individual liberty is committing self-destruction. Certainly the legislative steps that are now being taken are being taken in the dark. If everyone could see the situation as you must see it, they would know that the thing to do is to weigh individual losses against social gains at all times. If individual liberty is taken away in excess of social benefits granted then the future is, indeed, gloomy, uncertain, and dark. But if individual liberty is increased, or if even left to remain as it is, or was a few years ago, then that future will be good, and golden, and glorious.

SECOND NEGATIVE

Arthur Flemming, Ohio Wesleyan

LADIES AND GENTLEMEN: The Affirmative case thus far this evening has been characterized by two outstanding points. First of all, we have listened to a great deal of theory. We have heard the opposition talk about the bad effects of laws which restrict the liberty of the individual, how they tend to submerge his individuality and make him a mere machine. When we heard the opposition set forth this theory, we were sure that in due time they would be practical enough to come down from their realm of theory and explain how this particular governmental policy, as a whole, is reaching down into the individual life and is submerging his individuality. That they have not done.

The second characteristic of their case is simply this, that they have taken a few minor laws, and on them based their contention that our government is reaching down into the life of the individual and crowding out his individuality. We would call your attention to the fact that we can obtain no adequate understanding of this policy on the part of the government to restrict the liberty of the individual, by considering either a theoretical proposition, or a few minor laws. Instead, those who condemn must take whole fields of governmental activity and show that the evil effects of this policy to restrict the individual liberty are overbalancing the good effects.

Up to this point we have shown you that this policy to restrict the individual has grown out of the ever increasing complexities of society, and that to condemn this policy, and allow these complexities to increase, for the present, or in the future, uncontrolled by government would be dangerous to society as a whole.

I want to take you one step further and show you that, although this policy does meet the ever-increasing complexities of society, it does not take away the sacred or inalienable rights of the individual, but tends to make those rights far more secure. The very form of our government makes it impossible for this policy, or any other policy, to reach down into the individual life and control or take away those sacred individual rights. Both our Federal and state constitutions contain special provisions guaranteeing the individual that his individual rights will not be destroyed. Furthermore, the government not only puts those individual rights on paper, but goes further, and provides an agency, the courts of this country, to protect those rights. Further, the courts are very active and zealous in protecting those rights. Within the past few years the Supreme Court has handed down a decision declaring that no private home or private property could be searched unless the officer first secured a written warrant. In other words, the Supreme Court of the United States still recognizes our sacred right to live unmolested in our own private homes. Recently Oregon passed a law that would have destroyed all private and parochial schools of that state, but a Federal district court and the Supreme Court of the United States destroyed that law, thus re-emphasizing the fact that the right

to believe as our conscience dictated should be held inviolate, and impressing on the legislators that they have no right to regulate education in such a way as to interfere with and destroy freedom of thought and religion.

So it is obvious that any individual, or group of individuals, seeking to condemn this policy on the part of the government to restrict the liberty of the individual on the grounds that this policy reaches down into the individual life and destroys the inalienable rights of the individual, must assume the burden of showing that the courts of this country are falling down on their jobs and are refusing to hold the legislators up to the bill of rights in our state constitutions, and in the Constitution of the United States.

No, this policy, instead of destroying the inalienable rights of the individual, tends to make those rights far more secure by checking one of the most serious menaces of the present day, namely, the menace of the excessive individualist. In fact, that is the whole intent and purpose of this policy that the Affirmative are so strenuously condemning. Our governmental policy restricts the liberty of the individual, it is true, but only when that individual seeks to put his own rights and interests over and above the rights and welfare of the great mass of his fellow citizens. In other words, this policy checks the excessive individualist. We have always had to deal with this excessive individualist. We had to deal with him in the days of the Whiskey Rebellion, when a few men showed their excessive individualism, by refusing to pay a light tax on the manufacture of liquor. We had to deal with him in the days of the Hartford Convention, when a few men insisted that the War of 1812 should be run their way even though society as a whole might suffer. We have not only had to deal with the excessive individualist in the past, but have to deal with him today.

Why is it that our state and municipal legislators have found it necessary to pass automobile speed laws restricting the speed that you can drive down the main street of Berkeley? Is it not because of the fact that a few individuals would desire to exhibit their excessive individualism and proceed down the street, through crowded traffic, at forty or fifty miles an hour? It is the excessive individualist that breaks the speed laws and causes the loss of thousands of lives every year.

Why is it that Calvin Coolidge, when governor of Massachusetts, found it necessary to send the state militia into Boston in 1919? It was because the police force of that city claimed the individual liberty to strike, and leave the city unprotected. Murder, robbery, and the destruction of thousands of dollars' worth of property in three days and nights was the result of that expression of excessive individualism.

Only last month, President Coolidge asked Congress for more power to prevent coal strikes. Why is such a grant of power necessary? Simply because a few miners and operators claim the right to close up the mines of this country while a great portion of society shivers through zero weather.

Why is it that the government has found it necessary to extend restriction to the field of business? It is because a few individuals try to exploit society by charging more than a fair profit. A manufacturer in one community decides to put his competitor out of business, and so he sells his goods far below cost. Then he goes into another community and sells goods far above cost, in order to make up the loss that he sustained in putting the first competitor out of business. In the words of Secretary Herbert Hoover, "Whenever the legislature penetrates the field of business it is because abuse exists somewhere."

What caused the passage of the Eighteenth Amendment that the opposition have frequently referred to? First, the fact that a few individuals claimed the individual liberty to craze themselves with drink, and then insult, or even kill, their best friends. It was the fact that a few men claimed the individual liberty to spend their weeks' wages lying drunk in an open saloon while their wives and children suffered at home.

Why do we find the child labor laws on the statute books of every state? Because a few manufacturers claimed the individual liberty to impair the future health of our children by working them long hours under unhealthy conditions.

No, this policy on the part of the government is merely an attempt to check the excessive individualist to restrict that man who puts his rights and his liberty above the rights and welfare of society. Not one of the restrictive laws upon the statute books of our country today restricts the great mass of American citizens, but they restrict that small group of excessive individualists who want to infringe on the rights and

liberties that belong to us. This policy of restriction is not the creature of the legislators. It is your creature—a creature you have demanded should be brought into existence. Why? That your individual liberty might not be trespassed upon by a few excessive individualists.

THIRD AFFIRMATIVE

Philip S. Broughton, California

FRIENDS: Field Marshal von Hindenburg was once asked what means were taken to inculcate initiative into the soldiers of the Prussian army, and he said he merely explained to the soldier every possible situation which might arise and what to do when it arose. It seems that the philosophy of the great field marshal has penetrated deeply into the law-making spirit of our government, and into the philosophy of our opponents this evening. We have a suggestion to make to them, to assure the success of it. It is this, that all the words of wisdom handed down from our halls of legislation be taught to the school children in the public schools. That august body passes only a thousand statutes per session—and by reading only two a day the little ones can be kept informed, and, by adding five to that, they can catch up on all the back statutes in the short space of fifty years, and have the rest of their lives free to devote to a brief resumé of Federal and municipal legislation. There could be no excuse then for disobeying the law, and, if there was still some question there would be all eternity to think it over, and the government of hell at best would be improved, and the American people would reap the benefit of their foresight in due time.

When one pauses to contemplate the status of oppression, he is struck by the fact that it very often tends to defeat its own ends. Let us examine a few cases of its application.

I have no intention this evening of entering into a discussion of the recent suppressions of opinions upon this campus, but this much is certain that: under the stimulus of that suppression the news has traveled throughout the whole state, and the echo is heard in New York, and perhaps Boston, while it would have been fortunate to travel beyond the confines of our own campus, except for the actions of the few people who are continually worrying about our going to the dogs.

We have all seen the recent stimulation of the study of evolution brought about by the oppressive law in Tennessee, and volumes upon volumes sold to the public today through this publicity.

Is this a new or fixed example, or can we go back two thousand years to the land of Palestine and see the same thing? There existed the mightiest religion of the day. Standing upon an ancient heritage and unified by a testament believed to be the inspired work of the omnipotent God, it had in the light of that age every right to be considered the culmination of theocratic wisdom, and bound about itself rules of iron—narrow bonds to enforce the very letter of its commandments. And a reformer arose who preached the dignity of the individual and the doctrine of love, and the religion that might have ruled the world went down before the religion of the man crucified; and in the centuries that followed, that doctrine in its turn hedged around with bonds of iron, and, as its rulers saw it threatened by the works of Galileo, of Newton, and of Keppler, they took that same weapon of suppression and squeezed out the Luthers, the Calvins, and the Zwinglis, men who soundly preached the doctrine of individual liberty but failed to practice it, and in their turn squeezed from their own unyielding mantles “the four and seventy jarring sects” of today.

And now let us turn to the field of political opinion. We, here in the state of California, have jailed over one hundred men for believing that the turning point to a future state of society would come, as democracy came, by force and violence; and, what have we accomplished in doing this, accomplished our end, or raised an organization with a national membership of only twelve thousand names to the rank of a major political issue in the state of California?

Turn to the field of habits and actions. No man can keep to himself in this. Even our breathing is not our own, for lives may be blighted and empires wrecked by that insidious thing that even our friends won’t tell us about!

And then to turn to that all obliterating question of prohibition that our opponents have cited. They may be quite right about the merits of the case. It can be conclusively proved either way according to the source of statistics. But this much is certain, that the public attitude has changed on

the question of temperance. That the progress of temperance under the stimulus of education, would have made jolly Falstaff of Windsor Forest a condemned drunkard in any city in America in 1916, in 1926 he would probably be the most popular member of the Elks club.

What do these things prove? Our opponents say they don't believe in these cases of suppression, but we can't adopt the policy on the assumption that our law-makers will exercise such infallibly good judgment as our opponents, and so, in examining the case, we are finally led to this point, that, however much we philosophize upon individual liberty and proper limits of state action, the only dividing line that counts, in practice is the limit which the people accept. If you folks vote in favor of the fundamentalist proposition, and exclude the teachings of evolution from the schools, and publicly supported colleges you will find it true, and when Joseph II of Austria tried to force on his people even the most obviously social reforms, he found it true, and could not do it because they regarded them as infringements of their liberties. We must turn to the positive, rather than to the negative method. We must turn to the slower but surer molding of public opinion, of custom and convention, of personal habits and beliefs, that comes through education. We regard just as highly, and believe in social progress fully as much, as the Negative. It is merely the method which we condemn in this argument. We must realize that reformation cannot succeed until the people reach the point where they can understand the purpose of the reform, and, when they do that, and see the responsibility, then we will very often find that they will recognize the need themselves, and the law will be unnecessary.

Our opponents have cited case after case, including the speed law, and the pure food law, and by the time they are through enumerating the instances we are arguing a case something of this sort: Resolved, that the present tendency of the government to pass laws should be condemned. Certainly the law often does interfere in some measure with the rights of the individual, when it is a restriction of personal liberty, but, if the social welfare which is allowed by that law is greater than the restrictions upon the individual, and if it promises other men more freedom, then certainly the individ-

ual cannot claim that is something which he can hold to himself. In the field of governmental restriction no one would claim it was a suppression of personal liberty several years ago for us to prevent the Southern Pacific Company from running the government of California, but, if the regulating bodies tried to tell the Southern Pacific Company how it should keep its books, in case that is not a matter particularly necessary to the finding of the facts, or interfered in strictly private matters, they would be interfering with personal liberty. For the state government to take it out of politics in order to regain that right for the majority of the people, which the constitution of the state of California intended, is certainly not a field in which they could say that the personal liberty of the Southern Pacific Company was restricted.

THIRD NEGATIVE

Hurst Anderson, Ohio Wesleyan

LADIES AND GENTLEMEN: It is most interesting to sit here and enjoy the argument that the opposition have presented this evening. We see they teach history in the University of California, and we see that they teach philosophy in the University of California, but there is one thing, with all due respect to the gentleman who sits on the platform and happens to be in the Political Science Department, I am afraid the opposition haven't taken, although they may teach it in the University of California, and that is the subject of political science.

There is only one question confronting us this evening, and that is the question of practical legislative policy. It is not what has been in the past. Most of what the opposition have said could have been said fifty years ago with as much vigor and vim as tonight. The question that confronts them, as citizens of this country, is whether or not this policy that we are now discussing, and this policy that now rules us, is successful or unsuccessful today—1926. The gentlemen of the opposition haven't very thoroughly investigated this problem, and this is the problem with which we are concerned. The question is this, take up several fields in which this policy to extend the restrictions of individual liberty can be discussed, and check them up, and see whether or not the legislation in

those fields has done more harm than good. Has the opposition pointed out that this policy has done more harm than good? No, they have abstractly philosophized upon the relation of legislation to the individual, all of which we must admit is excellent philosophy, but they haven't pointed out that this policy has done more harm than good. That is the thing with which we are concerned, and it is upon that point that we wish the opposition would meet us before the debate is over, for we contend this policy to restrict individual liberty is a policy that meets the conditions found in this country, and a policy which has given us more good than it has harm.

Now, Ladies and Gentlemen, let us take up just a few of these fields in which we find this policy to extend the restriction of individual liberty. Let's take the ethical field. The outstanding question, of course, is the prohibition question, but we must remember this fact, regardless of what is said in reference to the enforcement of prohibition—and we recognize the fact that in some states of the union it is very difficult to enforce the prohibition act—but, regardless of what may be said about the enforcement of prohibition in every respect, the people of America have been saved from the evils of the saloon. The prohibition amendment and prohibition acts have cleared the streets of San Francisco from the open saloon, and the evils which came out of the saloon. That is what has been done in the ethical field, through the extension of this policy to restrict individual liberty.

Let us take the field of business. The policy to extend the restriction of individual liberty is found in our efforts to check and regulate the gigantic monopolies in this country. It is through the restriction of this business that fair contracts have been executed and a fair distribution of wealth has also been preserved.

Ladies and Gentlemen, as we go through these fields one after another, we must constantly keep in mind that this policy is protecting society and benefiting society, and it is benefiting you and me.

This policy to restrict the individual liberty in the field of education is found in our state education laws. Over three-fourths of the states have laws compelling education up to sixteen years of age. The United States of America sets the

standard—the highest standard—for education in the world. It is through this policy to restrict the liberty of the individual, and to compel him to go to school, that you and I, as American people, are being prepared for the educational and political leadership of the world, which we so much desire. It is such a policy which the opposition condemn.

We will take up the social field. It is in the social field that the syndicalism laws have been passed, protecting society and the individual—you and me—against the Russian propaganda which strikes at the foundation of our governmental structure, and which strikes at the principles incorporated in our American Constitution. It is these anti-syndicalism laws which are protecting society and the individual, and which are doing more good than they are doing harm. Hundreds of other types of social legislation might well be mentioned.

We might take again the field of traffic regulations—a field that we might call well discussed—as it has been referred to many times in the course of the debate. I think this policy to extend the restrictions of individual liberty in the field of traffic is necessary, because it is beneficial. It is not enough to theorize about the relationship of the individual to the law. It is a question of practical application. What are you going to do? We note the traffic congestions, and we note the ever increasing laws to control them. It is a question which the gentlemen must face this evening. And, in the traffic field, we contend this policy to restrict the individual liberty has done more good than it has done harm in protecting you and me so that we can go about our business daily without being run into by some individual, just because he chooses to go fifty or sixty miles an hour through the streets of Berkeley. Such is the policy which the gentlemen of California condemn.

Now, it might be well to call to your attention the report that Secretary Herbert Hoover presented to President Coolidge for the year 1925, summing up, in five statements, the prosperity which we enjoyed during 1925, and I just wish to read those statements:

1. Production, consumption, wholesale and retail sales, foreign trade, and "real" wages, broke records for normal years.
2. The United States displaced Great Britain as the

world's money center, having absorbed \$1,382,000,000 in foreign securities, compared to \$471,930,000 sold in London.

3. Virtually no unemployment.
4. Vast expansion in scientific discovery.
5. Building construction totaled \$6,000,000,000, of which 46 per cent went into residential structure.

Ladies and Gentlemen, a year unsurpassed in our history. That is the condition which we find. Now, Ladies and Gentlemen, it would certainly be ridiculous to stand up here on this platform, before this intelligent audience, and say this kind of a year was produced in our country simply by this policy of restricting individual liberty. That is not our point at all. The point is simply this: it is singular to note that we have experienced this prosperity while this policy to extend governmental restrictions of individual liberty has been in existence. It is certainly reasonable to contend that this policy has been one of the causes of our prosperity.

Again I must remind you what the opposition must do, for the burden of proof always rests with the Affirmative. They must show that this policy has done more harm than it has done good. It is a practical situation which they must confront when they look at the situation as a whole. We find we have prospered and that conditions in the country are better than they have been perhaps in any other period of our history. In other words, this policy to extend the restriction of individual liberty has done more good than harm to the American people. Now I might close with this statement from President Coolidge to Congress, made last December. President Coolidge said, "The country does not appear to require a radical departure from the policies already adopted so much as it needs a further extension of those policies."

FIRST NEGATIVE REBUTTAL

John S. Pyke, Ohio Wesleyan

LADIES AND GENTLEMEN: So far our opposition has followed the policy in this debate of upholding a purely theoretical argument in substantiation of their contention that we should condemn our present governmental policies. I think you

all probably realize that it is the easiest thing in the world to hold up a theory before an audience, and show that that theory is a splendid thing; but, when it comes to practically applying that theory to our every-day life, then difficulties arise. So far, we have failed to notice where our opposition has attempted to apply that theory actually to our practical, every-day life, and to our practical program of governmental regulations. This is a question, not of theory, but of practical legislation. Let our opposition take fields of practical legislation, and show that the policy should be condemned in those fields, show that this policy is there doing more harm than good.

The only practical thing they have done is to consider a certain number of laws that restrict the individual. They spoke of the Tennessee anti-evolution law, the prohibition law, pure-food laws, and the jailing of the I.W.W.'s in the state of California. Perhaps you don't realize that every year our Congress and legislatures pass over ten thousand new laws. The opposition has taken up four laws, and attempted to maintain that the whole governmental policy is bad because they claim those four laws are bad. You might have a crate of oranges. However, if one orange is bad, that is no proof they are all bad. This is a question of practical legislation. The opposition must show this policy has done more harm than good in broad fields of legislation, and not by taking specific laws.

Mr. Duerr set forth in his constructive speech a splendid theory. He said the government was restricting the individual, crushing individual initiative. I would refer the situation to your common sense. Is your individual liberty being *crushed*? Mr. Duerr has failed to make his application to modern society. In fact, this policy rather gives a true initiative in every field, for it removes the menace of excessive individualism in our society. We know that we have liberty only as we have law. For instance, take the example of the child labor law. The child labor law takes the children out of the tyrannical hands of the employer and offers them the opportunity to go to school. We have liberty only as we have law.

The gentlemen of the opposition say we must have a balance between the individual and society. They have failed, however, to show us that we haven't just such a balance. In

fact, they have even failed to show us that their policy would offer a possible balance. On the other hand, we have shown you that this policy is a wise balance, and the only possible balance because it keeps pace with modern society and meets the increasing complexities of society. Despite the fact that socialists and parlor radicals do not like it, we find that it protects the individual, and is the policy which has brought prosperity to our American nation.

FIRST AFFIRMATIVE REBUTTAL

Aileen A. McCandless, California

We have received numerous challenges, and about the most important one is this contention, that, out of thousands and thousands of laws that are passed every session, of which Mr. Broughton first informed you, we have discussed only four in showing that society is suppressing the individual. Now, as a matter of fact, this question reads: "Resolved, that the present policy to extend the governmental restriction of individual liberty should be condemned." And it is our contention that the laws we have cited show the extent to which the suppression is going. We are not bound to discuss every law on the statute books. It is a tendency we are debating about. They have asked us to show where these laws have done more harm than good, and I can merely point to the evolution law. How many people ever thought or talked about evolution before we had that silly trial in Tennessee? And now more books on that subject are sold than ever before. The same is true of the anti-syndicalist law. The same for prohibition. The I.W.W. didn't become popular until the law was passed. And the streets of San Francisco may have been cleared of saloons, but have they been cleared of drunkards? They have told us that without traffic laws, that traffic would be in a terrible condition of chaos, machines going this way and that, and the poor pedestrian taking to aeroplanes. But such laws are conveniences to everyone and do not exceed the mark of the balance between liberty and restraint. You can't control everything by law. Society is like a stream of people moving down the street. Perhaps some of them want to stop in at this and that shop, do you want to have a law saying that all so-

ciety shall stop in at that shop? And if you meet a friend and stop and chat, must you have a law to regulate that? If the citizen has the ability to take responsibility then he is an integral and valuable part of the community—if all his responsibility is taken away from him by law, then he becomes useless to himself and to society.

Now the tendency of laws is to make for uniformity in public and private life, and this is accomplished by standardization. The license system is a variety of standardization. We have licenses for bankers and butchers, dentists and plumbers, for lawyers and dogs. About the only thing we don't license are clergymen and cats. And we all know the terrible anarchy that prevails in both those classes.

There is another law they have overlooked. We ought to have a law for compulsory Americanization and make all our immigrants over into two-fisted, red-blooded, American he-men. And what has become of the curfew? How sweet it would be to hear the curfew toll the knell of parting day. If eight o'clock was too early, we might start in at 8:30 and gradually tighten up. We might make it a Federal law. It would be quite consistent with our daylight saving law.

Here is an example of famous uplift laws. Calvin Coolidge created in 1923 a national out of doors movement. So Pennsylvania authorized a commission, at \$5,000 a member, for the promotion of prize-fighting, and decreased the wages of the nurses in the hospitals where the fighters might be expected to apply for treatment. And this in spite of the fact that prize-fighting had been illegal in the state of Pennsylvania since 1866. All are examples of cases of paternal legislation. Why don't we have laws for baseball and golf, and for infant amusements like Mah Jongg. All legislation has to have the penalties included and this idea had its inception in the law prohibiting mice from eating cheese. And, Ladies and Gentlemen, these laws are all equally intelligent for you will stop the spread of evolution when mice stop eating cheese.

Yes, give the government more rope, as the saying is, and we will soon have a nation of jailers and anarchists. We don't want anarchy, but we do want to establish a balance, and these four laws, and many others, do show a dangerous tendency toward restriction by the government of individual liberty which should be condemned.

SECOND NEGATIVE REBUTTAL

Arthur Flemming, Ohio Wesleyan

We thoroughly enjoyed this interesting discussion about the extent to which this policy has gone in a few minor exceptions, and to what extent this policy might be carried. I suppose we could stretch our imagination even further and picture far more disastrous results than even the opposition have pictured. We could think up a few more foolish laws that could be brought in under this policy. That is altogether possible.

But let us stop and see just how the Affirmative have attacked this policy. First, they pick out these four laws, more or less radical exceptions to the present policy restricting the individual for the benefit of society as a whole, and they say that these laws show the extent to which the policy goes, and therefore that the policy should be condemned. Well now, Ladies and Gentlemen, we are not here this evening to hold a brief for every foolish action that the legislators have taken. We realize there are legislators in the country that might try to legislate about anything and everything under the sun, and we are not here to hold a brief for actions of that kind. Of course, we are not going to stand here and defend the Tennessee anti-evolution law. I don't know whether they want to drive us into that ridiculous position or not, but we are not going to do it. There is always a practical and a foolish working out of any policy. Naturally there are radical exceptions to this policy of restricting the individual, but, because there are a few radical exceptions to this policy, are you going to stand for the government condemning the whole policy, tending to throw the country into chaos, and into a position where it cannot meet the ever-increasing complexities of society?

The real test of any policy is the good effects balanced against the evil effects of that policy, and, in view of the fact that the Affirmative are assailing this policy on the part of the government to restrict the liberty of the individual and are arguing that it should be condemned, it is necessary for them to point out certain evil effects that this policy, not a few radical exceptions to it, have had upon society as a whole.

I sat here and noted several statements that the California debaters have based a great deal of their case on this evening.

First, there was a very broad assertion made by the first speaker when she said: "Can you name one individual liberty in this country that is sacred, and one inalienable right of the individual that has not been violated." That was a rather broad assertion, in view of the fact that it was not backed up by any authority at all. That assertion implies that the courts of this country have fallen down on their job and are not protecting the sacred rights of the individual. Whoever makes that statement must assume the burden of showing that the courts of this country are not functioning as they should.

Another statement was made later on to the effect that in all cases of restricting the individual more harm has been done than good. This is another very broad assertion and one which would win this debate if it could be established as true.

But here they take this whole policy of the government to restrict the liberty of the individual, and they say more harm than good has been done. Then, they have taken up four radical laws to prove their points. The Tennessee law we will have to dismiss. That has been discussed enough.

Now the matter of prohibition. We realize that is an important law under this policy and that it should be considered. They say we have less prohibition than before prohibition. Did they quote any authority? No. They simply made the statement. We realize that the prohibition law is not being executed in a successful manner, and that there is a great deal of room for improvement. But who will contend that society has not been benefited by the fact that saloons have been abolished and that the legitimate manufacture of liquor has been abolished and put beyond the pale of public distribution? Who will say society has not been benefited as a whole?

The Affirmative say this policy of restriction will never work, and they again cite the prohibition law, and further than that they refer to one hundred jailbirds in the California State Penitentiary that have given rise to a great political party. We don't know about the jailbirds of California, and can't raise an issue on that statement.

As far as prohibition is concerned it is true it is not working perfectly as yet. But give it a chance! It has accomplished some things.

But taking their case as a whole, instead of basing their case on a broad policy, they have picked out minor laws, and

have asked you, as thinking American citizens, to condemn this whole policy to restrict the liberty of the individual because of these few minor laws.

SECOND AFFIRMATIVE REBUTTAL

Edwin J. Duerr, California

It seems that the case of the Negative comes under two headings. The first is that this suppressive legislation does not restrict the mass, but that it only restricts a very small minority and is, therefore, harmless. Grant that for the moment. But can you grant this point: that the minority is always wrong, and that it must always be suppressed?

But supposing, again for the moment, that you do not grant the Negative their point. Let us look at the six of these few minorities. Pity the hulking minority that wants to smoke cigarettes. Pity the poor little minority that wants to go elsewhere but church on Sundays. Pity that meagre minority that wants to say and think what it pleases, and what it believes it should say and think.

Furthermore, the Negative is overlooking the fact that, although their suppressive legislation only applies to "minorities," it might, rather it must, later apply to majorities also. The very fact that they favor the passage of restrictive measures lays the basis for the passing of more restrictive laws. The very fact that they are letting down the legislative bars and allowing the legal sheep to run through, one by one, will fill the governmental pasture full of the pesky animals. You resent that; and we resent that, too.

The second, and main point upon which they base their case, is that such legislation does more good than harm. They erect this point on a foundation of only four examples after chiding us for citing only four examples. But never mind that. We agree with them in the fact that, if one orange is rotten in a box of oranges, it is no sign that the rest are rotten. But that is not saying that they will not all soon be rotten.

The very fact that they want to approve this tendency of restricting individual liberty is bad. The policy, the tendency is, itself, a bad one. If there are only four laws which deprive the individual of his liberty, we still maintain that the

government is at fault. We say this because these four measures can, and will be, the basis for the taking away of more and more individual recognition and responsibility in the future. The assumption is that the bad law, like the rotten orange, will soon affect all the other laws.

The Negative says, further, that we have to assume the responsibility of saying that the courts have fallen down on their job. We are not saying that the courts have fallen down on their job. We are saying, instead, that the courts have changed their job to another; we are saying that they sit in another chair, and a quite responsible chair, too. This removal has been made necessary because of the increased importance of society as a group.

As the Negative has said, in the case of education, present regulation can make the students go to school. But under a suppressive policy it does not allow them to be taught any new thoughts or to investigate and find new things or new truths for themselves.

In the case of syndicalism, for example, the law takes away from man the right to say, to believe, or even to think that which he knows to be true, and right, and just. The syndicalist law does not arrest people for things they actually do; but, in California, it arrests them for even thinking things. And it is a typical example of all suppressive legislation.

Let us come back to our case, for a conclusion. It is simply this: today the primary group is society. The opposition have agreed with us on that point. But this new social group itself depends upon individual initiative, individual recognition, and individual responsibility for its well being. When you take away, or approve the continued taking away, of individual liberty, you take all of these things away; and you are making for the destruction of the entire group. Society can never succeed by using the methods of restriction and suppression; nor can it long exist when it does not accord recognition to its component parts, the individuals.

No man can be a man of responsibility and initiative if he feels, upon every occasion, a dog collar of suppression about his neck. That dog collar means that he himself is going to the dogs, and that society is going to the bow-wows with him.

THIRD NEGATIVE REBUTTAL

Hurst Anderson, Ohio Wesleyan

LADIES AND GENTLEMEN: The opposition have made fun of about everything else this evening, except us, and I imagine if we were off the platform, behind the screen, they would make fools out of us. I am glad we are here. The opposition tried to brand the policy of the government as fixing dog collars around your neck and mine. Now, Ladies and Gentlemen, what tremendous oppression has this government been engaged in? Certainly only a reasonable extension of restriction where the complexities of society have demanded. If the opposition contend any other policy can function better, and at the same time that the social unit can function, then the burden of proof rests with the opposition as to any other policy. It is not enough to say social restrictions, or too much restriction, hurts the individual. We know that. They must do more than that, and show how, without this condition of restriction, this government can function with the complexities of modern society.

Now, let's go back to this crate of oranges. That was a very playful remark the gentleman of the opposition made, but he didn't carry that crate of oranges far enough. We can throw away the one bad orange in that crate, without throwing away the whole crate. The gentleman of the opposition wanted to throw away the whole crate, because there is one bad orange in it, and I ask you, is that good business? And it is just that kind of case that the gentlemen of the opposition rest their whole condemnation of this policy on. They say, because we have a few bad instances, and a few bad laws, as a result of this policy, the whole policy should be condemned. We of the Negative think it would be more reasonable and sane to keep that American policy, as a whole, that has brought about this prosperity we now enjoy, and throw away a few oranges that happen to be bad.

They say the unit of consideration is the group, and not the individual, under our present system. Of course, the unit of consideration is the group, but what has that to do with the legislative policy that we contend is necessary because of the increasing complexities of modern society? They say there is a realm in which it is unwise to interfere with the individual liberty—the freedom of the individual. We know that as well

as the opposition. But where will you draw this line? It is not an easy proposition to draw that line, and we don't think the time has come to draw that line because the complexities of modern society have not ceased, and until they do, we must continue this policy. There have been four oppressive legislative restrictions in past years, and there were restrictions in Palestine two thousand years ago, which suppressed the individual, and therefore, they say, this policy to restrict individual liberty should be condemned. Now, Ladies and Gentlemen, in the first place, I would refer you to the fact that we didn't rest our case on four restrictions. We picked out several broad fields in which we had experienced this policy—in the field of ethics, in the field of education, in the field of business, and in the field of social legislation, and tried to show that this policy has brought more good to you and more to society as a whole because it has been in existence. We don't ask the gentlemen of the opposition to take up one law after another and fill this platform full of laws. They have done very well in rebuttal, trying to fill it with bad laws, and we don't ask them to continue that, but ask them to take reasonable fields, and show that this policy, in outstanding fields, has done more harm than good, for it is in these fields that society has progressed, and that you and I have been benefited as American citizens.

Now President Coolidge made a very unique statement, and I wish to read that statement—if the time is up, I won't read it to you, but explain it briefly. He said, in the regulation of our course in the future, we must have more legislation, and he goes into minute details which the complexities of the field of air navigation present, and shows that increased regulation in that field is necessary.

This is a practical problem, Ladies and Gentlemen, and, as these complexities arise, we of the Negative think the American people should be wise enough to restrict and regulate for the benefit of society.

THIRD AFFIRMATIVE REBUTTAL

Philip S. Broughton, California

My opponent concluded by saying that President Coolidge made a very unique statement. I am quite sure, if he made one, it certainly must have been unique. He is quite right

in harking back to the box of oranges—which I think also contained a few lemons—by saying we can rid that box of the bad tendency by tossing away the rotten ones. That is what we are here for this evening, it is to throw way the rotten ones, and we have cited four rotten ones, and they made no mention of throwing them away, but simply have argued that they should be ignored.

They say we have not reached the point where we can draw the line between the field of individual liberty and the field of state action, but we are certainly at the point where we should discover a basis on which we shall draw that line when we are able to do it. We can't draw lines any time, as society is not a machine in a rut, but things are constantly passing from one side to the other, and there are two tendencies or purposes of these laws, one of which they have cited continually this evening, and merely deals with the right of suppression for the sake of society. The traffic keeps to the right when driving along a street, and, speaking of "driving" one into a ridiculous situation, they are apparently trying to drive us into the situation where we will have to advocate moving in both directions at once, on the same side of the street. That isn't that kind of law we claim interferes with the individual liberty. As the first speaker for the Affirmative made clear, it is rather that type of law which seeks to regulate and direct from above the morals of the people—the morals and actions which do not affect the security of society.

They have cast some aspersions upon our ability in political science. It seems to me, if they had studied political science just a wee bit better, they would have discovered that the national government leaves certain powers to the state, not because it has to—although in this country, due to the Federal policy, it does have to—but certain powers were granted to the state, not because it was absolutely necessary, but because it was the best way to operate; and the state grants certain powers to the municipalities, not because it has to, but because it is the best policy, and certain rights are reserved to the individual, because the states have found that is the best way to operate. They have at no time attacked our last argument on the method. When we are dealing with that type of law which regulates the morals, and does not affect the security

of society, but merely affects the individual, we hold to our proposition that the best way to bring the thing about is to educate the individual to the point where he can recognize it himself. Certainly we do not pretend in any manner to advocate the repeal of laws against murder, or of any laws which are absolutely necessary to the security of society.

As John Stuart Mill so well said, as soon as some action, which may have formerly been within the realm of individual action, threatens the security of the state, it passes out of the realm of individual action, and enters the realm of a public problem, and thereafter is within the proper function of the state to see that it should be restrained.

In all other matters which do not affect the security of the state, we of the Affirmative still maintain that the policy of governmental restriction should be condemned.

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CHAPTER V

CENTRALIZATION OF POWER IN THE FEDERAL GOVERNMENT

PURDUE UNIVERSITY

versus

IOWA STATE COLLEGE

RESOLVED: That the policy of centralizing power in the Federal government is desirable.

This is a stenographic report of the debate between an Affirmative team representing Purdue University and a Negative team representing the Iowa State College, which took place at Lafayette, Indiana on March 12, 1926. The decision of the judges was in favor of the Affirmative. This report of the debate, also briefs and bibliography, were obtained thru Mr. H. C. Harshberger, in charge of debating for Iowa State College, and Preston H. Scott of the Division of Public Speaking, Department of English for Purdue University.

BRIEF

CENTRALIZATION OF POWER IN THE FEDERAL GOVERNMENT

INTRODUCTION :

- A. Centralizing power in the Federal government is the transfer of power from the state to the Federal government, either by process of amendment or by the exercise of power under certain general provisions of the Constitution, contained in Article I, section 3 where Congress, among other things, is given the power to provide for the general welfare of the people of the United States and in Amendment 10 where powers not specifically delegated to the national government are reserved to the states or to the people.
- B. This question arises from the conflicts and diversities which often exist in state regulation.
- C. The principal issue in this question is: Is uniformity or diversity of law more desirable.
- D. The Affirmative will attempt to establish its case by proving three main arguments:
 - 1. Centralization of power in the past has been beneficial.
 - 2. Uniform legislation is needed to meet certain problems which face the country today.
 - 3. Centralization of power in the Federal government is the only practical means of obtaining this uniformity of law.

I. Centralization of power in the past has been beneficial.

- A. Amendments centralizing power in the Federal government, have ironed out diversities of state regulation on important problems.
 - i. The Thirteenth Amendment prohibited slavery.

2. The Fifteenth Amendment laid down the principle that the right of citizens to vote shall not be abridged by any state on account of race, color or creed.
3. The Nineteenth Amendment gave women equal suffrage rights with the men.
4. The Eighteenth Amendment prohibited the manufacture and sale of intoxicating liquors.

B. Under the general provisions of the Constitution diversities of state regulation have been smoothed out by centralizing power in the Federal government.

1. The National Banking Laws of 1863 made for uniform regulation of financial matters.
2. The Interstate Commerce Commission has made for uniform regulation of interstate commerce.

II. Uniform legislation is needed to meet certain problems which face the country today.

A. There are many diversities and conflicts in the marriage and divorce laws.

1. Divorce decrees in one state are not honored in another.
 - a. The case of *Thompson v. Thompson* illustrates this.
2. Senators Day, Stoltz, McCall and Randall all maintain these diversities are bad.

B. There are many diversities and conflicts in the child labor laws.

1. Recognized authorities maintain that this is so.
 - a. Theodore Roosevelt, in 1907, maintained that the states were incapable of meeting this situation.
 - b. Professor Taussig of Harvard maintains that the states are incapable of eliminating the diversities caused by their laws.
2. The effect of a good state law is lessened by poor state laws.
 - a. Children are taken from the state having the good law to the state having the poor law.

- (1) Children from New York go to New Jersey to work.
- (2) Children from Alabama go to Georgia to work.

III. Centralization of power in the Federal government is the only practical means of obtaining this uniformity of law.

A. State cooperation seems to be impossible.

1. The states have never passed uniform legislation.
 - a. It is difficult to gain full attendance at such conventions.
 - b. It is difficult to obtain unanimous consent.
 - c. It is necessary for the legislatures to ratify the action of the convention.
2. The states are unable to enforce laws uniformly.
 - a. The states do not have the same appropriations for law enforcement.
 - b. In actual practice the states have failed to enforce laws uniformly.
 - (1) In 1898 the Federal government had to take over the enforcement of the quarantine laws.
 - (2) The prohibition laws have been more uniformly enforced under national law.
 - (a) Under state regulation the amount of non-enforcement ranged from 5 per cent in Idaho to 95 per cent in New York state.
 - (b) Under national prohibition the degree of non-enforcement is 38 per cent.
 3. Laws would be difficult to modify.
 - a. Unanimous consent would be necessary in convention.
 - b. The state legislatures would all have to ratify the action of the convention.

B. Uniform legislation through centralization of power in the Federal government is practical.

 1. Unanimous consent of Congress is unnecessary to pass a law.
 2. The law can be uniformly enforced.

- a. Federal power is the same over the entire nation.
3. Modification of the law is much easier.
 - a. It is simply a question of Congress passing another law.

NEGATIVE

- I. Centralization of power in the Federal government will tend to undermine the state governments.
 - A. It gives powers, logically belonging to the states, to the national government.
 1. This has been done in the past.
 - a. The control of liquor is an excellent example of this transfer.
 2. This same process is going on today.
 - a. The Child Labor Amendment is the outstanding example of what is going on at the present time.
 3. There is every indication that this policy will be continued in the future.
 - a. There is serious talk of controlling marriage and divorce by national laws.
 - b. The farmer wants national control of his products.
 - c. Everyone, more and more, seems to want the national government to do something about everything.
 - B. It will tend to produce a sluggish condition in the state governments.
 1. The state legislatures will leave the solution of new problems to the national government.
 - a. Virginia has already refused to do anything about the sterilization of mental defectives.
 - b. Such a bill is being prepared for introduction into our national Congress.
 2. They are apt to become lax in the enforcement of their laws.
 - a. They will know that if they do nothing the national government will eventually do something about it.
 - (1) The people of Chicago have asked the

national government to do something about the crime wave in that city.

II. Centralization of power in the Federal government will tend to destroy the effectiveness of the national government.

A. Our national government will be overburdened.

1. In addition to its normal duties, the Federal government will have to control the social and moral welfare of the individual.
 - a. These are the powers which reside in the states.
2. The necessary duties the national government must perform are going to become increasingly heavy.
 - a. Advances in civilization will bring more national problems.
 - (1) The radio and the airship are good examples of this.

B. It will breed disrespect for law and order.

1. It will require uniform legislation on matters of individual conduct.
2. The individual will not obey a law which he feels interferes with his personal rights.
 - a. This is well shown in the case of prohibition.
3. This failure to obey the law results in a contempt for the government passing the law.

C. Local differences cannot be taken into consideration.

1. National legislation must be the same in all parts of the country.

III. Centralization of power in the Federal government will tend to weaken the individual.

A. This will tend to destroy his initiative.

1. The individual will come to look to the Federal government for help in all difficulties.
 - a. If the Federal government can regulate his labor why should it not regulate his education.
 - b. The principle once established, is non-ending.

B. Gradually the vitality of the nation will be sapped.

1. A nation is not much stronger than the individuals which compose it.

CENTRALIZATION OF POWER IN THE FEDERAL GOVERNMENT

PURDUE UNIVERSITY

versus

IOWA STATE COLLEGE

FIRST AFFIRMATIVE

Quincy M. Crater, Purdue

MR. CHAIRMAN, LADIES AND GENTLEMEN: C. Rossler, speaking before the Academy of Political Science, made this statement, "In unity, in the irresistible power of the whole lies all that is great in the moral world." That statement brought about a discussion of national power and that is the question for discussion tonight. The question is, Resolved, that the policy of centralization of power in the Federal government is desirable. Centralization of power is the transfer of power from state to Federal government, either by process of amendment or by the exercise of power under certain general provisions of the Constitution contained in Article I, Section 3, where Congress, among other things, is given power to provide for the general welfare of the people of the United States and in Amendment 10 where powers not specifically delegated in the Constitution are reserved to the states or to the people. No doubt a great many of you are wondering why we should discuss this question. Why have centralization of power at all? It is because centralization of power makes possible uniformity in law, where that uniformity of law is necessary to justice in law, because of diversity, strife and conflict which may exist in state regulation. On this basis we can readily see that the question is largely one of uniformity versus diversity of law. Because discrimination, conflict and injustice result where there are diversities in law under state regulation of certain problems. We will try to bring out these three points: 1. That centralization of power in the past has

been beneficial to the nation because it has made for uniformity in these laws. 2. That there are similar problems facing the country today, which are similar to those of the past in that there is a need for uniformity and for that reason we should have these problems solved through policy of centralization of power. 3. The third speaker for the Affirmative will prove to you that centralization of power in the Federal government is the only practical means of obtaining this uniformity in law.

As examples of centralization of power we have the Thirteenth, Fourteenth, Fifteenth, Eighteenth and Nineteenth Amendments. Take the question of slavery. Some of the people believed in slavery as an institution and others believed it to be a dangerous thing and as a result we had the Civil War. Lincoln said in regard to this proposition, "This country cannot exist half slave and half free." He realized that the great question was one of uniformity and of regulations. What was the result? The abolition of slavery and the Thirteenth Amendment which made uniform regulation where previously we had diverse statutes, under state laws, some of which permitted and some of which prohibited slavery.

The Fifteenth Amendment sets forth that the right of citizens of the United States to vote shall not be denied or abridged by any state on account of race, color, or creed. Why? Because eight states at the close of the Civil War believed that the negro should not be allowed to vote because he was black. All citizens of the United States are guaranteed equal rights in the Constitution. The United States had made these men citizens so why should they not be given equal rights? The states disagreed on this and so because of that we have the Federal government passing the Fifteenth Amendment, which made uniform the regulation with respect to race, color and creed.

The Nineteenth Amendment is also one of suffrage. Certain states believed that women should be given the right to vote, certain states said not. It is not necessary to go into the question of why but we have this problem centralized because these women are citizens of the United States, governed by its laws and guaranteed equal rights under the Constitution, which some states had denied. The Federal government replaces this with a centralized law which makes uniform the regulation of woman suffrage.

Then we passed the Eighteenth Amendment. A great many of us question whether or not it is successful from the standpoint of enforcement but we are not interested in that, we are interested in the question of uniformity. Senator Bryan gives as the reasons why Congress passed the Eighteenth Amendment, "Because it is the only effective means of putting an end to the liquor traffic because of the diversity of regulation in the various states."

The states were unable to cope with the liquor problem and so we have centralization of this power in the Federal government. The Federal government passed a law making uniform this regulation in all forty-eight states, one of the states having as much power as any other state.

We can see in these amendments centralization of power in the Federal government. State regulation with its diversity, injustice and discrimination was done away with by centralization of this power in the Federal government. Let me present some quotations from authorities in these matters. Senator Wiley in advocating the Fifteenth Amendment said, "The amendment will place all the states on an equality with respect to suffrage and so remove the just indignation that prevails in the states because of the present discrimination in the matter."

President Wilson in 1918 said of the Woman Suffrage Amendment, "It is the only safe way of protecting the rights or obtaining equality for all citizens of the United States, particularly the women."

With regard to centralization under the general provisions of the Constitution, we have the National Banking Laws of 1863. Why? Because of the diversity and resulting injustice of state regulation. Professor Taussig of Harvard University says, "Before the Civil War, under divergent state legislation of the several states there had been loose and dangerous conditions. The national banks brought a great improvement and came to be regarded as almost perfect."

Ladies and Gentlemen, in 1884, the Standard Oil Company collected \$10,000,000 in rebates of freight rates on goods shipped in interstate commerce while the small producer had no rebate of freight rates and the states were helpless in face of the interstate commerce. We see here discrimination under state regulation of this property. The laws are ineffective. All the states

do not cope with the situation and the result of those conditions is the demand of the people of the United States for uniform regulation. Honorable Thomas W. Palmer, speaking before the House of Representatives says, "This Interstate Commerce Commission is necessary to the people of the United States and their welfare because the states are ineffective to cope with the discrimination of other states, the uncertainty and secret injury." Centralization again takes place because of the diversity and conflict between state laws.

Many of the advocates of centralization of power, Mr. West, Senators Bruce and Root, and Mr. Dunning, all cite us as examples of centralization of power in the past, the quarantine laws, lottery laws, pure food laws, Mann Act, Federal farm loan and Federal reserve banks and numerous others.

When we stop to analyze each one, we find diversity, conflict and strife under state legislation responsible for these problems and these conditions and this results in uniformity of regulation and some uniform law covering this throughout the United States. Thus we see that centralization of power in the past has taken place, that centralization of power has been beneficial because it has made for uniformity in certain problems, where more than one state is affected by this legislation. Therefore, it has been beneficial in the past because it has made for uniformity in certain problems, where more than one state is affected by this legislation. Therefore, it has been beneficial in the past because it has made for uniformity and we believe on this basis centralization of power in the United States in the future is desirable.

FIRST NEGATIVE

Jerome H. Bowen, Iowa

LADIES AND GENTLEMEN: The speaker who just left the floor has shown you certain cases in which he believes this centralization of power has been beneficial. He has picked out a few of the amendments and has shown that they are beneficial. But he has omitted a great many. We believe by considering the policy by which they were secured, we can really arrive at the truth of the desirability of this policy. We believe this will work out in a number of ways which are not desirable—that it is detrimental to our system of government as it exists today. Washington saw

the danger in this when he said, "But let there be no change by usurpation for this though in one instance be the instrument of good, is the ordinary weapon by which free government is destroyed."

These things then should be considered and legislated upon by the states. We believe in our country those things which are for the betterment of the health, education and good morals of the people in our country should be legislated upon by the states. This has long been done and this system has been a good one. That it has been a good system we can see by the fact that today we are looked upon as the greatest nation in the world. We have grown from less than ten thousand people to more than one hundred thousand. We have extended in territory so that we have today forty-eight states covering a territory of over three million square miles. This then, is, we believe, mute but very conclusive evidence that our system has been a good one.

If, then, we of the Negative can show that this policy of centralization of power is detrimental to our political system it is not a desirable policy for the United States to follow. We believe that the state governments, the Federal government and the individual himself will suffer from this policy if it is carried to its logical conclusion. We believe, then, that the policy of centralization of power in the Federal government is undesirable, because,

1. It tends to undermine the state governments.
2. It tends to destroy the effectiveness of the Federal government.
3. It impairs the self reliance of the individual.

As the first speaker, I shall show you just how it tends to undermine the state governments. Before this policy of centralization began making any great headway, we find that state governments were looked up to, the people thought that the government was a good thing—that it was meeting the problems that came before it as they should be met and enforcing its laws as they should be enforced. But once that policy was started, the rights of the states were declared conclusively to be very much less than that of the nation, then we find the Federal government taking over the power originally reserved to the states. What has happened to the states as a result of following this policy? They are being undermined and are suffering. It comes

about in two ways. The state governments do not cause their enforcing agencies to enforce the laws as they should and so the Federal government assumes the power. The Federal government has taken over so many powers that the state governments realize that if they do not enforce their laws, they may send them to the Federal government and allow the Federal government to take care of them, so their enforcing agencies are not as strict as they should be.

Then a new problem arises. We have an example in the case of the proposed sterilization of mental defectives. For several years scientists have advocated this step. Up to the present this problem has been presented to the legislature of only one state—Virginia. What did they do? They paid no attention, they did not even investigate the matter. Why, because they knew the Federal government would take care of it and today there is a committee at work, working on a bill to be proposed in the very near future in the Federal Congress taking care of this. This is a new thing and if the Federal government takes care of it, a law is passed making it uniform. If the states had considered this thing, they could have tried it out and seen how it worked. Then the other states could have adjusted the law that this state had found good, to the conditions existing in each of their states, and they would have passed laws covering this problem. But now if we are to have the Federal government legislate upon it and it proves detrimental, then the whole nation will suffer.

The governor of Virginia says "The process of centralization has gone merrily on, now by the slow erosion of judicial decision, now swept forward by the flood waters of constitutional amendment until today about all that is left to the states is their honor and credit. The proposed amendment, tax exempt securities, would take these away and place them irrevocably under the control of the central government."

President Coolidge has said, "What we need is not more Federal government but better local government." Only the other day the people of Chicago went to the United States Senate to obtain some solution of the problem of crime which has arisen there in the last few years. They find that the agencies of the state government have been unable to cope with the problem because they knew the Federal government would take care of it. Our people are already saying this thing and are going to the

Federal government. So we see these state governments are being undermined, that their enforcing agencies are growing lax, they are not paying any attention to the causes which have been influencing them. When a new problem arises the state government will not try to solve it or experiment with it.

What is the result to our political system as it exists today? Nicholas Murray Butler, the president of Columbia University says, "If you were to destroy the forty-eight states and to reduce them to mere names, like the provinces of France or the old kingdoms of Saxon England, you would have destroyed America; you would have substituted something else." You can see that this thing is coming about in the state governments, that the state governments are being injured by the carrying forward of this policy. Now my colleagues will show you just how this policy will tend to destroy our Federal government and impair the self reliance of the individual.

SECOND AFFIRMATIVE

Asbury L. Spencer, Purdue

LADIES AND GENTLEMEN: The speaker who just left the floor stated that this plan would tend to destroy state government. Did you ever stop to think that if an ordinance cannot meet the demands and purposes for which it was intended, it is useless. Then why not take away certain powers? So you see here, Ladies and Gentlemen, that when the state fails to enforce these particular problems, it is obvious that the national government must take them over, as in the case of woman suffrage, national banking acts, Interstate Commerce Commission, quarantine laws and others which the states were powerless to handle. Rev. William Hall Moreland in the *Literary Digest* of July 9, 1921, says, "Congress has recognized the need of a uniform Federal law governing bankruptcy, income tax, and matters relating to property. It is inevitable that sooner or later marriage and divorce in the United States will be regulated in like manner."

So you see here again the Negative may point out to you that the states can handle these matters; but are they handling them, that is the question; and if they can we will let them; if not, put them in the hands of the national government. Stuart Doggett says, "Legislation to be effective must be national regarding great problems."

Beside this, if the states do not come in and are not interested, then the national government must take over these rights and administer them because the states are not meeting these particular problems. The Association of Government Labor Officials of the United States and Canada, May 22, 1924, declared the belief that the enactment of a Federal child labor law will aid the states in the enactment and administration of child labor laws. Representatives of thirty-one states were unanimously in favor of amending the Constitution in regard to child labor. Let me cite some further authorities:

Roosevelt, "I'm in favor of a drastic child labor law."

Wilson, in regard to first Federal child labor law, August 8, 1916, says, "It is with genuine pride that I played my part in completing this legislation."

Harding, December 8, 1922, "I recommended the submission of such an amendment."

Coolidge, August 19, 1924, "The Congress should have authority to provide a uniform law applicable to the whole nation which will protect childhood, because our states have different standards or no standards at all, for child labor.

Republican platform, 1916. Pledged Federal law regarding child labor.

Democratic platform, 1916. "We favor the speedy enactment of a rigid child labor law."

Republican platform, 1920. Federal child labor law and urged enforcement.

Republican platform, 1924. Child labor law and asked for cooperation of states.

President Harding advocated the same thing. We should take over these powers from the states and invest them in the national government because the state is not interested and does not care to handle.

The first speaker proved that certain doctrines have been solved by uniformity of regulation, woman suffrage, the Eighteenth Amendment; and he also mentioned the Interstate Commerce act, the national banking laws, the quarantine law and others which have been solved by a uniform law.

Today we again find ourselves facing a number of problems in which diverse conditions exist between the states. For instance, marriage and divorce laws. There are many diverse laws existing between the different states, which cause conflict and strife.

These could be solved by uniform legislation. Take for instance the case of Thompson vs. Thompson, in which a man from Kentucky was married in New York, and moves back to Kentucky. The man was granted a decree of divorce in the court of Kentucky but was arrested upon his return to New York, so you see the conflict existing and the diverse conditions in the state laws. Divorce decrees in one state are not honored in another. There is a diversity of conditions existing in state laws which develops into suffering to the people involved. The states are not adequately handling the problem.

We find a number of men, Senators Day, Stoltz, McCall and Randall, all in favor of uniformity in law regarding marriage and divorce. In the past where these diverse conditions existed, woman's suffrage, interstate commerce, quarantine laws, etc., they have been solved by uniform legislation and since these problems today are similar to those in the past, we advocate that the United States apply uniformity of legislation in regard to this problem.

This is not the only problem. We have the problem of child labor. Theodore Roosevelt in 1907 said, "States rights should be preserved when they mean the peoples' rights, not when they mean the peoples' wrongs; not, for instance, when they are invoked to prevent the abolition of child labor or to break the force of laws which prohibit the importation of contract labor. The states have shown that they have not the ability to curb the power of syndicated wealth and therefore in the interest of the people it must be done by national action."

Professor Taussig of Harvard says, "In regard to child labor the variations are bad, because they lead to a bad kind of competition between the backward and forward states. The backward states try to attract capital by having a minimum regulation or none at all, the forward states find themselves subjected to an unfair and lowering competition."

We are told that Wisconsin has a 95 per cent efficient law. But where we find one state has a good law we find the states adjoining have a laxity of law. Also I would like to remind you that Wisconsin, with its ideal law, was one of the four states to ratify the Child Labor Amendment because Wisconsin realized that the law was without value without national cooperation. Take New York and New Jersey. New Jersey has a very lax law and New York has a good law. We find children being

transported to New Jersey to meet the demand for cheap labor and there seems to be nothing to prevent this. Take Alabama and Georgia. Alabama has a law prohibiting children under sixteen and an eight-hour day. Georgia has an age limit of fourteen and half and allows them to work ten to twelve hours. There is a bridge across the Chattahoosee River from Alabama to Georgia and we will see Alabama children going across this bridge to their homes in Alabama, getting around the law in Alabama. These children go into Georgia and work twelve hours.

So you see, Ladies and Gentlemen, that we are facing a problem of diverse conditions existing between these different states. Today we are advocating that these problems be solved by uniform child labor laws, since in the past similar questions have been solved by uniform legislation and we are advocating that this question be solved by uniform legislation. The people of the United States should favor this.

SECOND NEGATIVE

Joseph M. Kennedy, Iowa

LADIES AND GENTLEMEN: Aristotle, the philosopher, said that government is very much like a person's nose. If you twist it too far it will be a snub nose, in other words not exactly desirable, and if you smooth it the other way it will be aquiline and that is not exactly desirable. This is what he meant—that government if pushed too far may get too much power which is not desirable; neither is government without power enough desirable.

It is our privilege to show you tonight that by this policy of centralization of power in the Federal government, we will get too much power in our Federal government and we will show this to you by developing first the argument that it will tend to undermine the state government and break down the Federal system and secondly, it will tend to over-burden the Federal government and thirdly, it will tend to impair the self reliance of the individual, the American citizen. If we can show you it will do these three things, we believe we have proved our case this evening.

The Affirmative so far have told you that uniformity and uniformity of law are the most desirable things and they say

that since these things are to be enforced that they be enforced the same all over the United States.

Now we have delegated to the United States government certain powers and it shall be my privilege to show you, if in addition to these powers, we must add all these other duties, that that government will have so many duties that it cannot take care of them efficiently.

I would like to name a few of the things delegated to the Federal government, in Section 8 of Article I of the Constitution. We find that the Federal government really has many duties to perform, some of which are the power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States, borrow money on the credit of the United States, to regulate commerce with foreign nations, and among the several states.

Furthermore, the Federal government can provide for the punishment of counterfeiting the securities and current coin of the United States, promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

These are only part of the powers given over to the Federal government and to go on and name over the list would take too long. The Affirmative would add the duties which now belong to the states but you know what the states have to do—the states take direct care of the individual citizens of the state and it is left to the state to take care of him through his education, marry him, divorce him, take care of his property—that is the duty of the state government. Now we will assume that the Federal government takes over that also. It will mean his individual liberty that will be taken by the Federal government under this policy of centralization.

So you see state governments would become less effective and there are other things coming up from day to day as a result of our increased industrial and social activities and these, all of them, must be taken over by the Federal government under this policy of centralization. Can you not see that a policy of that kind will bring a great burden upon the Federal government? As Aristotle says, if you push that government too far it makes that government snub-nosed.

There are still other reasons why we would not care to have this centralization of power. The Federal government is too far removed from the individual citizen of the United States. You do not have as great interest in your Federal government as you do in your state government, nor do you have as much interest in your state government as you do in your local government and that is only half the case. The Federal government does not have as much interest in you, as individuals, as does your state legislature and the state does not have as much interest in you as your county or city officers. So you can see the farther removed that government becomes from the individual citizens the less interest that citizen has and the less interest that government has in the individual citizen.

Under this policy, if we should have it, of centralized control in the Federal government, it would be necessary for all our Federal legislators to legislate on all kinds of law in all parts of our nation. Can you realize how great a task that would be? Would you want men in New York, schooled only in industrial affairs, to pass upon your affairs in Indiana or a man raised in Iowa and versed in agriculture to pass upon the industrial legislation of New York? What is the result? Simply this. The Iowa legislator who knows nothing of industrial conditions in New York, must vote for the New York legislator's bill in order to have this gentleman's (who in turn knows nothing of Iowa agricultural condition) support for legislation proposed by the congressman from Iowa. In other words you support me and I will support you. This is bad enough under the condition as it exists. Think what would happen under complete centralization! What might be good for New York might be bad for Iowa. What might be good for Iowa might be bad for New York. And yet because our political system is as it is, we might have both laws. In other words our purely local conditions would be determined by everyone except ourselves. This is a rather serious drawback, Ladies and Gentlemen. That is what we are coming to under this centralization of power and another reason for refusing to enter into the system of centralized government.

Furthermore, this centralizing of power in the Federal government will bring about a bureaucratic form of government. As the Affirmative has said tonight, if we are to have uniform laws we must have uniform enforcement. It is a simple thing

to pass a uniform law but after all it takes something to put those laws into effect and this is the trouble that comes along with centralized government. It is the administration and enforcement of these laws over a widely divergent and varying country which will result in bureaucracy. A bureaucracy means something has been turned over to a bureau. Furthermore a committee or bureau gives to several individuals or to a body of people, not directly responsible to the people the right to pass on what is the people's business. When there is no direct responsibility the work is apt to be poorly done. If you want work done by a committee, the smaller the committee the better the work and if the committee is cut to one person, yourself, and then you do the work you know it will be well done.

Under our Federal system there are several departments working for the government, I mean as set out in 1907—the Bureau of Agriculture, Bureau of Animal Husbandry, Bureau of Horticulture, Bureau of Floriculture, Bureau of Home Economics, Bureau of Soils and Crops and several others, which show we are developing a bureaucratic form of government. This bureaucratic government legislating over a large area brings out ineffective enforcement by the Federal government. The Affirmative admitted this—that some of us are questioning whether or not the enforcement of prohibition has been very good. This is only one example, there are other things. A government that cannot enforce these things cannot be very good government.

THIRD AFFIRMATIVE

Leonard L. Huxtable, Purdue

LADIES AND GENTLEMEN: The gentlemen of the Negative have told us that uniformity and uniformity in law are the only desirable things. I would like to correct that impression which they seem to have obtained. We are advocating uniformity as a means to an end. We have shown you in the past many cases of centralization. In the past we have had centralization because there was injustice and conflict, and uniformity was the remedy for that. The Negative has told you that the Interstate Commerce Commission was not centralized power. I need but refer them to Mr. West in his book on Federal power where we find the Interstate Commerce Commission listed as such.

The Negative seem to have the impression that we are advocating centralization of all powers in the Federal government. If you recall, the first speaker for the Affirmative advocated centralization of power in those cases which the states cannot control, due to over-lapping opinions and divers conditions and we see, as instances of this, marriage and divorce laws, child labor and natural resources. In examining cases in the past we see that centralization has taken place where the states could not control the problems and we say we are advocating centralization in cases where states at the present time are unable to control the problems.

The gentlemen have very kindly given you a list of the powers of the Federal government but they failed to realize that our forefathers, when they drew up the Constitution, took into consideration the fact that the United States would grow and the fact that we would have to expand. We have reason for expansion. We find that in the case of the cabinet—the cabinet has grown from a few members to its present number.

Ladies and Gentlemen, so far this evening we have shown you cases of centralization in the past and have pointed out that they have been beneficial in that they have made for uniformity. The second speaker gave us these cases which at the present time are facing us and which are similar to those in the past. My object this evening is to show you and prove to you that the only practical method of securing this uniformity is through centralization under our present form of government; and we are advocating no change whatsoever.

On the one hand we have state cooperation and on the other centralization. In considering practicability through state cooperation there are several questions which must be met and answered. We must have unanimous agreement by the states, a law which is uniformly enforced, and a law which may be easily modified to meet new conditions; that is by unanimous agreement. We realize that it is quite difficult to come to a unanimous decision on any question and in the case of the states we find the history of the past has shown us first of all certain sectional jealousies and diversities.

In 1906 at the national conference of uniform marriage and divorce laws called by the Governor of Pennsylvania, the states unanimously agreed that something should be done to make the

marriage and divorce laws uniform. And furthermore, they agreed to do it. But from 1906 to 1913 we do not find a thing that has been done. In 1913, the thirteen states met again and the same thing occurred and again we see nothing from it.

If you ever stop to examine the marriage and divorce laws you will find that there are forty-nine laws, no two alike; and that is the question the states agreed should be made uniform and agreed to make uniform. The only inference we can draw from this is that the states are unable to reach a unanimous agreement as to what the laws should be. It is impractical then, to expect the states to reach a unanimous agreement and thus obtain a uniform law.

The second question to be met is that of uniform enforcement of the laws. We realize that certain people will obey laws of their own accord, whereas others must have police to stand over them. Likewise certain states have definite, fixed sums set aside to enforce laws. It is quite possible that the state which requires the most amount of money has the smallest amount and the state with the smallest problem has excess money. The logical thing would be to take this excess and give it to the state which needs it, but under state cooperation we find that we do not have that single, central power with authority to take that excess from one state and give it to the other, where it is needed. If we examine cases in the past in history we find in regard to the Migratory Bird Act the following. I am quoting from the Supreme Court records in regard to that act. "It is not sufficient to rely on the states, the reliance is vain."

In 1799 the quarantine laws were in the hands of state governments. In 1898 the Federal government took over the enforcement of quarantine laws and we find this statement from Representative Rayener of Maryland, "Some of the states have ample and sufficient quarantine regulation, while others have legislation upon the subject which is entirely impotent, and still others have no statutes upon the subject at all. No one state has it within its power to protect itself from the importation of an epidemic." In other words, that was a question where they could not secure uniform enforcement and the solution was the passing of a national bill. In regard to prohibition, during the time that the state governments had the power and the duty to enforce prohibition, we find a degree of non-enforcement ranging from

5 per cent in Idaho to 95 per cent in New York state. These figures are quoted from the report of the assistant attorney general. But, Ladies and Gentlemen, no sooner did the Federal government take over this problem of enforcement than we find the degree of non-enforcement to be 38 per cent, but it was distributed uniformly throughout the United States. This is simply another case showing the impracticability of securing uniform enforcement through state cooperation.

In regard to modification of the law, suppose that the states have met and have come to unanimous agreement and then suppose that some condition comes up before one state or a majority of the states which requires the changing of that law. Under state cooperation we find that each state has to appropriate sums to pay the expenses of a representative. We find likewise that these states have to elect this representative and send him to a joint meeting. We find when these representatives have met and have come to this unanimous agreement which is so impractical to secure, then the law must be taken back to each individual state and every one of the forty-eight states has to ratify it. Certainly that is not practical and not efficient. We have seen, Ladies and Gentlemen, in regard to uniformity through state cooperation, that it is not practical to expect to secure a unanimous agreement, to secure uniform enforcement, or to have a law that is easily modified. Certainly, then, we can say that it is not practical in the least to secure uniformity through state cooperation.

Let us consider then on the other hand, the practicability of securing uniformity through centralization. We find that the first question is of no concern, for Congress does not need a unanimous vote but only a majority vote to pass a measure.

In regard to the second question, that of uniform enforcement, with centralization we do have that guiding power to which I have already referred, which can distribute the national enforcement finances in such a manner that just and uniform enforcement is the result. I have already mentioned prohibition as an example of this. In regard to the third question, we find to modify a law in Congress all that is necessary is to make up another law and that law after it is passed by Congress becomes supreme. So we see that it is practical to secure uniformity through centralization.

Let us review the case of the Affirmative this evening. Centralization in the past has been beneficial and the first speaker has pointed out the reason it has been beneficial—because it has made for uniformity.

The second speaker has shown you those cases which we are facing at the present time, those problems that are confronting us as citizens of the United States and which are similar to those in the past.

I, as the third speaker, have shown you the only practical method of securing uniformity is through centralization. Since these things are true, we of the Affirmative maintain that the policy of centralization of power in the Federal government is desirable.

THIRD NEGATIVE

Cecil H. Jefferson, Iowa

LADIES AND GENTLEMEN: The speaker who just left the floor wanted to leave with you emphatically that the Interstate Commerce Commission was an example of centralization. What of it? We do not care whether it was centralization or not. We do not care anything about these individual cases, taken separately, but we, as the first and second speakers have told you, are considering the ultimate and sum total of all these things carried to their logical extreme. This is the only stand we have taken. They have shown you how this policy has been adopted and carried up to the present time and they have proven it is desirable but they have said nothing about this policy carried to its ultimate extent. Centralization of power from this viewpoint is not desirable.

Now, from the arguments I have gained from the Affirmative this evening, their first speaker has proved it has been beneficial in the past because it has unified legislation. The second speaker proved that our present conditions demand uniform laws and the third speaker has proven to you that centralization is the only practical means of securing uniformity. Therefore, Ladies and Gentlemen, they base their arguments upon uniformity. We will argue with them on that point.

We disagree with the Affirmative that in every case where the states do not enforce their laws the Federal government should take over the control of the problem legislated upon.

Now then, I doubt very much whether many of you people here this evening could leave this building and walk downtown without violating some law, yet we are not criminals and I would not recommend that we should have Federal officers standing at that door to see that you got downtown without violating a law. Yet the Affirmative have recommended that if the state does not have effective enforcement of their laws, the Federal government should take charge and see that those laws are enforced. Now then, they have shown you that some laws have been successfully enforced in the past. Some of these are the Mann act, the quarantine laws, pure food laws, Federal reserve banks and others. Yet they mention prohibition but say it is a debatable question as to whether it is successful. Another thing they mention about prohibition is, since we have had national prohibition the consumption of liquor has been reduced from 95 per cent to 38 per cent and that it has been distributed uniformly over the entire United States. Now I did not get any of that so it was not uniform in my case.

Let us take their policy of uniformity—that every act of the individual that the state fails to control successfully, must be given to the Federal government. Now then we do not admit that the states are perfect, in fact we are quite willing to admit that their legislation could be improved not only in quality but in enforcement.

But now let us consider the status of the individual after centralization is carried farther. The Federal government will take upon itself the power to supervise that individual. They will say to him—we have controlled your birth, it is only proper and right that we should see you are successfully educated. After the individual has been educated he will naturally want to marry. The government will advise that that is all right—you may marry, providing you marry under the laws we have laid down. So the Federal government will get him successfully married. Then the individual may want a divorce. Well, all right, the Federal government will say, we got you into this, we will get you out, providing you will accept your divorce under the laws we expressly lay down for you. And then perhaps before the individual gets to be an old man he may want to go into business. The Federal government will say: "You can go into business but we will control your business."

Under the Dickinson bill, if passed, the Federal government will buy all the farmers' surplus. If the Federal government is going to buy all the surplus it is not going to buy any more than is necessary to regulate farm production. Then the time will come when the government will regulate the amount of crops the farmer can sow. The Federal government will go to farmers in the north, east and all four corners and say: "You can harvest that crop at a certain time, sell it at a certain time and get so much for it." Think carefully of the condition the farmers will be in.

Now the individual is an old man and the Federal government will give him an old age pension to reimburse him. You can readily see the status of any individual under these conditions. His self-reliance would be effectively destroyed and his influences to a higher life would be taken away.

We believe, and our claim has been substantiated by a member of the New York Bar that the individual has done much toward the betterment of the government. The government exists for the individual and not the individual for the government. We believe, then, that the individual should be given a chance to fight his own battles first and thus build up his self-reliance and initiative. We believe that a strong local government will do this because it leaves these problems up to the individual.

Upon these three facts we base our argument tonight:

- i. That our tendency toward centralization will tend to undermine the state government.
2. That it will tend to overburden the Federal government and that the Federal government in attempting to do too much does nothing efficiently and
3. That our tendency toward centralization will impair the self-reliance of the individual.

In closing I would like to ask the Affirmative to substantiate their claim to uniformity.

FIRST NEGATIVE REBUTTAL

Joseph M. Kennedy, Iowa

LADIES AND GENTLEMEN: The Affirmative case this evening, as you no doubt know, has been built largely upon the foundation of uniformity. I would like to read for you a few words of (Wilson) taken from the *North American* which say "Uniform

regulation of the economic conditions of a vast territory and various people like the United States would be mutiny, if not impossible." That is, economic legislation, and you know that today our Federal government, as my colleagues have pointed out to you, is entering into certain economic legislation. We have pointed out to you, it is entering into certain economic legislation. We have a vast nation—a nation of many different resources—agriculture in the west and the industries of the east and I do not know what we have in Florida. So I do not believe that legislation should be uniform all over the United States. Many of you know something of the steel industry of Pittsburgh, something of the farm machinery factories of Illinois, the packing plants of Chicago and the flour mills of Minneapolis—all these things and conditions surrounding them differ. Yet they all require legislation of some kind. If we try to pass uniform labor legislation or uniform child labor laws, you realize what a great thing the Federal government is coming up against. The Affirmative in arguing child labor are somewhat out of their field.

We are not taking one of these things—child labor, or prohibition and saying it is not a good thing. It might be a good thing and it might not, we do not care as to that. We are taking all of these things and putting them under the Federal government and we are showing you that under that policy our Federal government will be over-burdened, the state governments will be undermined and the last speaker has shown you the result to the individual citizen. We do not believe it to be desirable.

We want to say a few words about public opinion. We see the Affirmative this evening have outlined a little plan for us whereby we could have this uniform legislation. They built up a strong government for us and then knocked it over, but we would like to have them tell us what they are going to do under the Federal system of centralization. They are advocating the change in centralization and they must show us how it is going to work out. For instance, child labor. Louisiana has a lax law, New York has a strong one and we want to have uniform legislation by the Federal government. What are they going to do, take the Louisiana or the New York standard? If they take the New York standard how are they going to enforce it in Louisiana and if the Louisiana standard, what can they do in

New York? So the Federal government would not be more effective in matters of this kind than the states. So we believe under state legislation it will give more power to the Federal government, more power to the state government and more power to the individual than under the centralization system.

FIRST AFFIRMATIVE REBUTTAL

Quincy M. Crater, Purdue

The gentlemen of the Negative, in closing their case, asked us to substantiate our claim to uniformity. With regard to the Eighteenth Amendment, Bryan said that the states were ineffective in handling the problem because of the diversity in state laws. The need was for uniform regulation. President Wilson in 1918 sent this message to Congress, "The Women's Suffrage Amendment should be adopted in order that all citizens may have equal rights." Also Honorable Daniel R. Anthony says, "This Women's Suffrage Amendment is the only sufficient method of wiping away the discrimination that exists in various states." We have adopted the Woman's Suffrage Amendment because there are certain conditions which can only be remedied through uniform Federal legislation.

With regard to the Interstate Commerce Commission Thomas W. Palmer says, "The complaint of the people is of discrimination, uncertainty and injustice of state regulation." In Volume 9 of *Great Debates*, Senator Heyburn of Iowa is quoted with regard to the pure food laws. "Some state laws are very meagre, some are very local, some are discriminatory to the people of the state. Thus it is impossible for a state to effectively regulate the pure food problem."

Thus we believe, and we assure you again that the question is one of uniformity, and centralization in the past has come as a result of a need for uniformity. The gentlemen of the Negative have not presented full evidence to the contrary.

Let us analyze the case of the Negative. They argue: 1. That it will undermine state government, 2. It will over-burden the Federal government and 3. It will destroy the self-reliance of the individual. What is all this based upon? What are all these things dependent upon? The state government, the Federal government, and the individual himself. If the individual asserts his rights as we invariably expect him to do, his self-reliance is

not going to be impaired. If he asserts his rights and his opinions he is going to establish the Federal government according to his own ideas. Thus we see that individual responsibility does not end with centralization of power because we have a government of the people and our government is what the people make it.

Mr. West, in his book on *Federal Power*, says, "The power to determine the destiny of the nation rests with the people. They should determine what should be centralized and how far centralization should go. Their strength of opinion is what is going to determine this policy in the future, how far it is going."

Daniel Webster years ago said, "There is no danger that Congress will abuse this power because the wisdom and discretion of Congress, their identity with the people and the influence which their constituents possess at election, are in this, as in many other cases, the sole restraint upon which the people have relied to secure them from abuse."

I pointed out to you in my constructive speech the reasons for centralization—injustice, diversity and conflict between state laws. These conditions under state regulation led to a demand by the people that their representatives in Washington make uniform Federal legislation and that they centralize this power. Therefore this whole proposition of government in the United States rests upon certain reliable individuals and the propositions of the Negative cannot result.

SECOND NEGATIVE REBUTTAL

Cecil H. Jefferson, Iowa

LADIES AND GENTLEMEN: I did ask the Affirmative to substantiate their claim for uniformity. The state did not enforce prohibition and they called upon the Federal government. All right. Yet the Affirmative stated the success of the Eighteenth Amendment is questionable. Therefore they admit that the Federal government has not been successful in legislating upon that which naturally fell within its rights when the states refused to legislate upon it.

If we put all these things in the hands of the Federal government, we must consider our present policy and what that policy is going to be in the future. Therefore, let us take two other

laws which they mention. They insist upon uniformity in child labor and uniformity in marriage and divorce. They said there was a demand by the people of the United States for uniform child labor, yet when Congress enacted two laws pertaining to child labor they were declared unconstitutional. Now when Congress has tried to get over an amendment, thirty of those states have refused to ratify that amendment.

With reference to uniformity in marriage and divorce laws, in North Carolina the people want no divorces and allow no divorces. In Massachusetts there are seven fundamental grounds for divorce and the Massachusetts laws are meagerly enforced. Now if we are to have uniformity in marriage and divorce to apply to forty-eight states, it must be necessary to compromise between the law of North Carolina and that of Massachusetts. Which will the gentlemen of the Affirmative propose—the restricted law of North Carolina where we have no divorces or a law where we have as many divorces as marriage. If, however, they advocate neither of these, just how will they strike their happy medium so it can be enforced in all of the states at the same time.

In spite of the fact that we do not like to argue on each case individually, we cannot let this opportunity pass to say something about the Affirmative upholding a civil war in order to establish a uniformity of legislation. At the time of the Civil War some of the states had slavery and others did not. Therefore they would recommend that we plunge ourselves into a disastrous civil war, from which the south has not arisen yet. They did not give the states time to adjust their own problems alone. Conditions since have proved to us that in a few years the states would have eradicated it.

Now, Ladies and Gentlemen, we still believe that the burden of proof lies on the Affirmative to show you where our conditions at the present time demand uniformity and where uniformity will be more successful.

SECOND AFFIRMATIVE REBUTTAL

Asbury L. Spencer, Purdue

The speaker who just left the floor has pointed out to you that with regard to prohibition, we are not having enforcement of this law. Now you will find that Congress gave authority to

the states to enforce this law and left it in part to the states. We will agree with them that it has been a failure. But this is a failure of state enforcement. So you see this demand for cooperation has led to these things. We did not say that prohibition was a uniform regulation.

The Negative also made a mistake in regard to the divorce law of North Carolina. It is South Carolina which has this law and which does not prohibit divorce.

They would also like to know whether we would have, in regard to child labor, the law of Louisiana or Wisconsin, or other words, a lax law or rigid law. I shall answer them both at the same time. We would have to investigate. If we find that it is detrimental for children to work in a mine any place in the United States, we will embody this in the national amendment. In other words, it will fit Louisiana and Wisconsin. If we find it is detrimental to work in the wheat fields of Kansas, we will embody this after investigation. In regard to marriage and divorce, if we find it is detrimental to health and the mind to marry under eighteen for men and sixteen for women, we will specify that in the law. The law will be uniform respecting the same industry throughout the country.

The gentlemen of the Negative have painted a very vivid picture of the Civil War.

We have had centralization ever since the country was formed. Take the national banking acts, was this not beneficial to the people of the United States, putting the country on a sound financial basis? Was not that legislation beneficial which created citizenship for the negro? Were not the quarantine laws beneficial? So we say, Ladies and Gentlemen, this statement about transferring of power to the Federal government is not fair. It did not result in a civil war since 1861, did it? Of course not and why should it today. This is a superlative case and they have not backed it up with evidence. We want the gentlemen of the Negative to show us where centralization of power will result in a civil war in the United States.

We find Mr. Wilson, Mr. Bryce and Col. Taft demanding a uniform law with regard to child labor so you can see it is a good thing.

The *Literary Digest* says, "Congress has recognized the need of a uniform Federal law governing bankruptcy, income tax,

and matters relating to property. It is inevitable that sooner or later marriage and divorce in the United States will be regulated in like manner."

Hiram Johnson says, "It is plainly agreed that a uniform law on marriage and divorce is necessary in the United States."

Theodore Roosevelt says, "We, the people of the east, our state governors, showed that the states in the east couldn't do as well as the national government."

The *Outlook*, Vol. 92, p. 910, says, in regard to the state of Oregon, "The conservative and wise use of water resources will, we believe, never be accomplished until the whole country submits to Federal administration."

So we see there is really a demand for uniform laws in the United States and the states should favor this plan for centralization.

THIRD NEGATIVE REBUTTAL

Jerome H. Bowen, Iowa

LADIES AND GENTLEMEN: The only objection to the detriment which we have shown you will result to our political system today, which has been brought out by the Affirmative is that the individual still retains his self-reliance and that as long as he has this self-reliance then the Federal government will not bring about these detriments which we believe are coming about. Can the Affirmative show us one government, one centralized government where the individual has average foresight and initiative?

My colleagues have said that centralization is desirable because it has brought uniformity in the past, because there are problems which seem to demand uniformity today and because centralized power is the only practical means of getting uniformity. They base their contention upon the assumption that uniformity is good.

Now then, despite the fact that we have vastly similar economic and trade conditions, the fact remains that social conditions are not uniform. The people have vastly different ideals and these things must be taken into account because these things influence public opinion and without uniformity of public opinion we cannot have uniformity of instrument.

Our friends are asking for uniformity in enforcement throughout the United States. Is it uniformity in enforcement

when in Madison, Wisconsin the padlock is placed on every public place whose guests are found under the influence of alcohol while, in Chicago no such action is taken. Is that uniformity in enforcement of these laws. In the south the law in regard to the negro is not uniform because some of the states have found some way to get around this and the negro does not vote. So you cannot bring about uniformity of enforcement even if you have uniform legislation. These differing social conditions bring about different desires and after all it is the desires of the people that should be the desire of the government. If the citizen does not find the conditions he wants in one section he can go to some section where his desires are more fully met. He can then find justice by going to that part of the country which best suits him. There are a great many different people and they have these different desires. If they want then, to have these different conditions, that is what they should have. The people will have everything they want. That is, I believe, more truly justice than the conditions which the Affirmative set forth.

So we see that uniformity is only apparent, it is not real. The desirable thing is to have different conditions in the different parts of the country so different kinds of people may seek the condition they desire, that everyone may be pleased and we see that the Federal government cannot bring about uniform enforcement even though it has uniform legislation.

The Negative has shown you that this policy, if carried out, will result in undermining of the state governments. The Affirmative has shown you the state is not taking care of these problems and the Federal government takes over the problems which the states lay down.

We have shown you it will tend to destroy the effectiveness of our Federal government and over-burden our Federal government.

We are fast approaching the point where by setting up these rigid conditions the self-reliance of the individual is being impaired.

THIRD AFFIRMATIVE REBUTTAL

Leonard L. Huxtable, Purdue

LADIES AND GENTLEMEN: The Negative have asked us to point out one government besides the United States which has

centralization at the present time in which individual rights are still maintained. Now I ask you whether it is exactly fair to ask us to point out another government? Is there a single government in this world which is similar to the United States government? The gentlemen in their case, so far this evening, tried to point out that centralization tends to undermine the state and impair the Federal government. The third speaker made the statement that the Federal government in attempting to do too much does nothing efficiently. Now, Ladies and Gentlemen, suppose the Federal government were inefficient as the Negative have proved to you. There are still some things more important than efficiency in this world. If they are advocating efficiency why not a monarchy? Ogg tells us that "A monarchy is the most efficient form of government." I have shown you that uniformity is a remedy for injustice. And we maintain that justice is more important than efficiency. The gentlemen have assumed that efficiency is always desirable; that is, efficiency is necessary in order to make the law desirable. Ladies and Gentlemen, they have not substantiated that argument. They have not shown you that Federal government is more inefficient under centralization than the states are at the present time. I would like to point out some of the inefficiencies of the states.

Ladies and Gentlemen, have the Negative shown you that the Federal government will be more inefficient than the states are at the present time? They certainly have not and if they can show you that fact, which they have not done, they have still to prove to you that efficiency is more desirable than justice. The gentlemen have pointed out to you the wide diversity in social conditions, at least in child labor, marriage and divorce and other questions. They have assumed in making this statement that the business of every law is to get at the fundamental conditions. If we examine the laws we find the problem is to regulate and not to get at the fundamental conditions. The fact that we have prohibition does not prove that everyone in the United States believes drinking is a sin, but the majority of the people believe it to be detrimental to the welfare of the nation as a whole and therefore passed this law to regulate and make uniform the consumption of alcoholic beverages. We see, then, Ladies and Gentlemen, that the purpose of laws is to regulate and that social conditions have nothing whatsoever to do with it. Now we have seen that the Negative have based their case upon

this fact of individual rights and we likewise say that we have not heard a great deal of evidence to substantiate this.

I would like to sum up in brief the case of the Affirmative. We have shown you certain cases of centralization in the past and have analyzed those very clearly and have shown you the question involved was where the state governments could not adequately handle the cases. We have said that centralization has been beneficial in the past because it has made for uniformity. We have shown you certain problems facing the country today and the similarity between those cases and those in the past, and lastly we have shown you that the only practical method of securing this uniformity is through centralization. Since these things are true, the Affirmative maintains that the policy of centralization of power in the Federal government is desirable.

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CHAPTER VI

POPULAR REFERENDUM ON WAR

UNIVERSITY OF SOUTHERN CALIFORNIA

RESOLVED: That war, except in cases of invasion or internal rebellion, should be declared by a direct vote of the people.

The forensic herein reproduced is comprised of the speeches of the Affirmative and Negative teams representing the University of Southern California in the contests in the Western States Debating League with the University of Nevada and the University of Utah. The Southern California Negative met the Nevada Affirmative at Reno, Nevada, on April 17, 1926, which resulted in a unanimous decision in favor of the Negative; while the Southern California Affirmative met the Utah Negative in Bovard Auditorium at Los Angeles, California, on the evening of March 5, 1926; and this contest resulted in a unanimous decision in favor of the Affirmative. The clashes of argument in the following addresses are virtually identical with those occurring in the actual debates; and the speeches herewith produced contain every major argument met by these two teams during a schedule of twenty-five debates upon this very interesting subject. These speeches were secured through Mr. Alan Nichols, Coach of Debate, University of Southern California.

BRIEF

POPULAR REFERENDUM ON WAR

AFFIRMATIVE

INTRODUCTION :

- A. The normal reaction of civilized man to war is unfavorable.
- B. The desire uppermost in the minds of the world today is for a lasting peace.
 - i. The World Court, the Disarmament Conference, and the League of Nations are all part of a great modern movement to relegate war to the junk heap.
- C. As part of this movement it has been suggested that the people should be allowed to vote on war.
 - i. People are awakening to the fact that they have an inherent right to vote on the question of war.
 - a. The right to decide whether our lives should be sacrificed in aggressive wars is too personal to be trusted to elected representatives.
- D. Under the Affirmative plan Congress will retain much of its present authority.
 - i. In the case of defensive wars or rebellion, Congress will retain the rights it already has.
 - 2. This plan will function only in the case of aggressive wars.
- I. A declaration of war by the people is fundamentally sound.
 - A. It is practical in its achievement.
 - i. Under the present plan, when Congress decides to go to war, a bare majority can pass a resolution to begin war.
 - 2. The Affirmative plan transfers this power to the people.

- a. The President will send the message to Congress, as he does at present, reciting the facts and circumstances that exist, and the possible grounds for war.
- b. Congress will debate the question as it does at present.
- c. It will then vote on a resolution to submit the question to the people.
 - (1) If the resolution does not carry, the matter will be dropped.
- d. If the resolution carries, a popular vote will be taken by means of the regular election machinery.

3. This plan does not discard the present system but adds to it.

- a. It has all the advantages and safeguards of the present system.
- b. In addition, it provides for a final and controlling vote by the people.

B. It is an added step in the growth of democratic government.

- 1. The old-fashioned doctrine of pure representative government, whereby people elected their representatives, and then sat back and let them run the government, is being revised.
 - a. It has proved inadequate.
 - (1) The representatives elected did nothing or did their worst.
 - (2) Fifty-one per cent of Congress constitutes a quorum and a majority of a quorum may bind a nation.
 - (a) It is possible for 26 per cent of Congress to pass a war declaration.
 - (3) Representatives have no accurate way of determining the wishes of their constituents on such questions.
 - (a) They are elected at fixed intervals on certain well-defined issues.
 - (4) The best Congress can do is to guess, and often they are miserable guessers.

2. This weakness in our national government can be corrected by adopting the referendum.
 - a. This has already been done in many state governments.
 - b. It would replace crude guess work by certainty.
- II. A declaration of war by the people would promote peace.
 - A. It would tend to remove the influence of private and corporate interests in the decision.
 - i. This influence is enormous.
 - a. Among the concerns whose products are used in war, there is not a single one that did not make 100 per cent on its capital stock during the World War.
 - (1) One steel corporation made as high as 2,584 per cent on its capital stock.
 - b. Where such profits can be reaped it is almost certain that such financial interests will exert every bit of pressure to get war declared.
 2. With the declaration of war in the hands of the people, the influence of such interests would be greatly minimized.
 - a. What influence is spread by means of propaganda will not have much effect on the voter, protected as he is by the secret ballot box.
 - (1) The men and women who went through the horrors of the last war and paid its price in suffering, loss of loved ones, privations, and taxes, will vote pretty much their honest convictions when they are in the ballot box.
 - B. It would compel careful consideration before action.
 - i. It would require from two to six weeks to ascertain accurately the wishes of the people on the question.
 - a. Congress could decide in a few days.
 2. The delay would give a breathing spell during which the entire question would be thoroughly aired and discussed.

- a. This breathing spell would tend to avert war, and on a very old principle.
 - (1) If as a child you were taught to count to one hundred before fighting, you would probably act and speak more wisely after doing so.
 - (2) This principle is the basic one governing all our courts of arbitration since the first Hague Conference of 1898.
 - (3) It is a cardinal rule of the League of Nations.
- b. Under the Affirmative plan, during this period of discussion and voting, all sides of the question will be thoroughly aired.
- c. Passions will have subsided, and the decision will be made on the basis of a studied and deliberate judgment when all the facts are known.

3. It will safeguard us against the mistakes of momentary excitement.

C. Public opinion is coming rapidly to condemn wars.

- 1. Every major body of the Protestant church, has, since the World War, declared against war in any form.
 - a. This involves some twenty-five millions of people.
 - b. They have so definitely withdrawn the church from ever again creating, as they did in 1918, the great moral purposes of war that it is doubtful if they can ever retract their word.
- 2. The Federated Council of Churches in America, and the National Organization of Women's Clubs have declared their absolute and uncompromising opposition to war in all its forms.
 - a. In the case of a national referendum, these three organizations could be counted upon to throw their strength in the issue on the side of peace.
- 3. Even the militarists recognize the attitude of the people toward war.

- a. Only by high flung and catchy slogans, and by lying and distorted propaganda can they influence American boys to maim and kill other human beings.
4. The fact that the Americans fought the World War to forever "end war" is evidence of the popular attitude.

NEGATIVE

The present method of declaring war should be retained, because

- I. Declaration of war by trained representatives is superior to the vote of the entire populace.
 - A. It was so considered by the framers of the Constitution of the United States.
 - i. Knowing the practical operation of the separate colonial governments, understanding the workings of foreign powers, and knowing the failures of early popular democracies, they were unanimously in favor of a representative form of government.
 - a. They realized the people could not take time to study questions of government, and that it was better to permit a more intelligent judgment by expression of the people through specially trained representatives.
 - b. The power of declaring war was placed in the hands of Congress and the President.
 - B. The practical operation of this representative system has repeatedly justified the anticipation of the framers of the Constitution.
 - i. Each senator has served an average of over twelve years in the Senate, devoting his whole time to law making.
 - ii. On an average, each member of the House of Representatives has had seven years of experience in that body.
 - iii. The caliber of men is even higher in committees.
 - a. The Foreign Relations Committee, which first passes on all war measures, is composed of

eighteen men, five of whom have been governors, one a minister to a foreign nation, many with years of legal training, and all with college degrees.

4. Under the present system it might well happen that the public voice pronounced by the representatives of the people will be more consonant to the public good than if pronounced by the masses.

II. Congress has exercised its power to declare war wisely in the past.

- A. Among the thirty wars participated in by the United States during its history, all but four are excluded from this debate.

1. Twenty-two were Indian wars, hardly to be dignified by the name of wars.
2. The Revolutionary and Civil wars, were wars of invasion or rebellion.

- B. This leaves four conflicts.

1. The War of 1812.

- a. It was caused principally by the impressment, by Great Britain, of American seamen, and by the Indian uprising of 1811, encouraged by the British, which caused great loss of American lives.
 - b. Nobody has questioned the justice of this war.
 - c. For over one hundred years since, England has respected our ideals of neutrality and has been one of our closest allies in international affairs.

2. The War with Mexico in 1846.

- a. It was caused principally by the annexation of Texas by the United States.
 - (1) Albert Bushnell Hart says in his *History of the American Nation* that the annexation of Texas was legitimate.
 - b. War would probably not have resulted even then if Mexico had not attacked the troops of Gen. Zachary Taylor in Texas, in 1846.

3. The Spanish-American War.

- a. This shows deliberation and a wise use of the war declaring power, on the part of Congress and the President.
 - (1) For two years the President and his Cabinet ignored the virtual authorization of Congress to recognize Cuban independence.
 - (a) Such recognition would have led to war immediately.
 - (2) After the President finally advocated forceable intervention, it took days of deliberation, on the part of the House and the Senate, and the President before the action was approved.
4. The vote on war with Germany in 1917 met with the same careful consideration.
 - a. Pages and pages of fine print in the *Congressional Record* show the careful deliberation of the reasons for going to war.
 - b. These reason take into careful consideration the desires of the people.
 - c. It was evident that the final vote for war expressed the real desires of the people.

III. Declaration of war by the people would jeopardize national safety.

- A. It would be too slow and cumbersome.
 - i. Declaration of war is not a matter on which long deliberation is always wise.
 - a. As a hypothetical case, suppose the Japanese fleet comes within five miles of our Pacific coast and stops.
 - (1) Someone, presumably Congress, must first determine whether or not this constitutes an invasion.
 - (a) This alone would take several days of discussion.
 - (2) If not an invasion, the question of whether to declare war must be submitted to the people.

- (a) Several million ballots must be printed and distributed.
- (b) The question may, for political reasons, be framed ambiguously, or so as to prejudice the vote.
- (c) The date of election must be fixed by proclamation, either by the President, governors of the states or Congress.
- (d) Days would be required to set the election machinery in motion and get an official count of the results.

(3) Under no possible theory could war be declared in less than two or three months.

- (a) Japan would have been able, all this time, to prepare to defend herself.

B. The voters would be unable to obtain the secret information necessary to a wise vote.

- 1. No method has been suggested whereby the voters may learn about the issues involved, and the arguments for and against the declaration of war.
- 2. There are certain facts the citizen should know, in order to decide intelligently.
 - a. Exact status of our military condition.
 - (1) How many aeroplanes we have fit for service.
 - (2) How many dreadnaughts, cruisers, submarines, etc., and how fit for service.
 - (3) Facilities for manufacturing munitions of war.
 - b. What treaties exist that will be affected.
- 3. Such information could not be given to the public without giving away our exact condition to our proposed enemy.
 - a. To do this would be practically national suicide.
- 4. If such information could be given out, there is no certain way of reporting it accurately.
 - a. We would have to depend on the press.

- (1) Such information would be distorted by the journals according to whether they were for or against war.
- (2) It would be too conflicting and uncertain to depend upon.

C. Bitter antagonisms would obstruct seriously a vigorous prosecution of the conflict.

- 1. There are now over thirty-six million people in the United States having one or both of their parents foreign born.
 - a. They will always have more or less strong attachments for their native countries.
- 2. If the United States were declaring war against another nation, other nations would not be slow to propagandize their aliens in this country for or against the proposal.
- 3. On most questions of war, one section of our country would favor it where other sections would be opposed.
- 4. The question of war always raises feeling to the highest pitch, and, between aliens, propaganda and sectionalism, would raise it to fever pitch.
- 5. All this would combine to prevent a vigorous prosecution of the war.

POPULAR REFERENDUM ON WAR

UNIVERSITY OF SOUTHERN CALIFORNIA

AFFIRMATIVE SPEECHES IN DEBATE AGAINST THE
UNIVERSITY OF UTAH

FIRST AFFIRMATIVE

William Berger, Southern California

MR. CHAIRMAN, LADIES AND GENTLEMEN: I was talking about the war with a friend the other day, and he said that in the heat of a certain battle, he was always where the bullets were thickest. I inquired what part of the battlefield that was. He replied, "Battlefield nothing, I was inside the ammunition wagon." This is the normal reaction of civilized man to war. If I were to take a vote here on the question, I think I would get as a reply an emphatic repetition of the remarks once made upon the subject by a famous American general.

If there is one desire uppermost today in the minds of the world, it is the desire for a lasting peace. The World Court, the Disarmament Conference and the League of Nations, are all a part of a great modern movement which is seeking to relegate war to the junk heap. As a part of this movement, the plan of letting the people vote on war has been suggested. This plan has come to the front lately because the people are awakening to the fact that they have an inherent right to vote on the question of war. This might be illustrated by an analogy with marriage. Not long ago when young people arrived at a marriageable age, their parents decided whom and when they would marry. The result of this system was not very satisfactory. Marriage, it was found, is too delicate, too personal a question, to be decided by representatives, no matter how faithful they might be. For this reason, today, every person is deemed to have an inherent right to choose a mate. Now, I do not maintain that marriage is in all respects like war—I don't know enough about it—but in that both involve

the giving up of personal rights and liberties, too intimate to be controlled by the most faithful representatives, they are analogous. They only difference is that in war, a man loses his freedom and his life, while in marriage he loses only a small part of his freedom—usually, freedom of speech. If he has the right to personally decide in the one case, I am sure you will agree with me that he has that right in the other. The right to decide whether our lives should be sacrificed in an aggressive war, is too personal to be entrusted to elected representatives, no matter how sincere they may be; it is too personal to be entrusted to elected representatives, no matter how satisfactory they may be. It should be decided only by the people whose lives and property are at stake.

Under the plan as proposed by the Affirmative this evening Congress will retain much of its present authority. Should the United States be invaded, or should a rebellion arise, Congress will have the same power it has at present to declare war. The plan as limited by the question, applies specifically to two kinds of wars: offensive, when the United States declares a state of war with a foreign nation; and defensive, when a foreign nation declares war against us. Practically the plan will be used only in offensive wars, for no nation has control over its defensive wars. Under the present system, when war is declared against us, we are at war whether we say so or not. In such cases, the President does not wait for a formal declaration by Congress to commence hostilities. That would be as sensible as if, should a ruffian threaten to attack me, I were to telephone home to my family for permission to defend myself. On the contrary, the President makes immediate preparation for war. In such a case, a declaration becomes a mere formality, and is usually entirely dispensed with, as in our early wars with France, Tripoli and Algiers. This is so under the present system, and it will similarly obtain under the Affirmative plan. Thus this plan will function only in cases of aggressive wars, where this nation sends its manhood out to fight another nation, and that nation has not declared war against us.

We hold that the people should have this power to declare aggressive wars for two reasons: because in its theoretical and practical aspects, a declaration of war by the people is funda-

mentally sound, and because a popular vote on war would promote peace.

Declaration of war by the people is fundamentally sound, first, because it is practical in its achievement. Under the present system, when Congress decides to go to war, a simple resolution to that effect, passed by a bare majority, is sufficient to precipitate a conflict. The Affirmative plan transfers this power, with the limitations I have already mentioned, to the people. Of course, somebody must decide when there are sufficient grounds to take a popular vote on the question, and the logical body to do this is Congress. Thus under the Affirmative plan, war will be declared in the following manner: The President will send the message to Congress just as he does at present, reciting the facts and circumstances that exist, and the possible grounds for war. Congress will debate the question just as it does at present. It will then vote upon a resolution, but this resolution, instead of being a resolution of war, will be a resolution to submit the question to the people. If the resolution does not carry, the matter will be dropped. If the resolution does carry, a popular vote will be held. This vote will be taken in the several states, by means of the regular election machinery. For example, we have right here in Los Angeles County, a county registrar of voters. This registrar holds a list of the inspectors for each precinct of the county. Each inspector in turn has a list of the judges and clerks who are to serve under him at the polls at the next election. The registrar of voters is responsible to the Secretary of State, and the Secretary of State is responsible to the President. In the vaults of our court house there may be found locked and sealed ballot boxes, all addressed and ready for delivery to their respective precincts. This is all regular election machinery and would all be utilized under the Affirmative plan. Thus our proposal does not discard the present system; it adds to it. It has every check of the present system. It has every advantage of the present system. It has every safeguard of the present system. But in addition, it provides for a final and controlling vote by the people.

Second, declaration of war by the people is fundamentally sound because it is an added step in the natural growth of democratic government. The old fashioned doctrine of pure

representative government current about a half century ago was that the people should elect their representatives, and then sit back and let them do their worst. The result was that they usually did their worst; or they did nothing, which was worse. For this reason, the old theory has been revised. It has been revised because it is not sufficiently accurate. In the first place, 51 per cent of Congress constitutes a quorum, and a majority of a quorum may bind the nation. Thus it is possible for 26 per cent of Congress, a small minority, to pass a war declaration. In the second place, our representatives are elected at fixed intervals on certain well defined issues. But during the period of their term, new issues, such as the question of war, arise; and there is no accurate way for them to determine what the people think on these issues. Thus the last Congress was elected on many issues, among them, lower taxes. Now suppose the question of war should come up in Congress this year. Congress would know that the people favored cutting their taxes; but Congress would not know whether the people favored cutting their throats. And Congress would have absolutely no way of finding this out. Thus the War of 1812 was declared twenty months after the general election, the war with Mexico eighteen months later, and the war with Spain, nineteen months later. In none of these cases did Congress have any real effective way of determining the popular sentiment on the matter. The best Congress can do is to guess, and judging by some of our laws, congressmen are miserable guessers. This is an inherent weakness of pure representative government; it is the undemocratic thing about democracy. We have remedied this weakness in our state governments by adopting the referendum, which permits the people to vote on vital state questions. We can remedy the same weakness in our national government by adopting the plan of the Affirmative, which would permit the people to vote on the most vital of all national questions, the question of war.

Friends, the present method of declaring war is based on crude guesswork; the method we propose is based on certainty. The present method gives the people no check on Congress; the method we propose gives the people an effective check. The present method gives the people no voice in a war declaration; the method we propose gives them a controlling voice.

By replacing crude guesswork with certainty, by replacing congressional omnipotence with a popular check, and by giving the people a voice in a war declaration, the Affirmative plan is in sympathy with the modern development of democratic government.

In conclusion, we have seen that declaration of war by the people is fundamentally sound because it is practical in its achievement, and because it is an added step in the natural growth of democratic government.

SECOND AFFIRMATIVE

Leland C. Tallman, Southern California

MR. CHAIRMAN, LADIES AND GENTLEMEN: Mr. Brennan seems to be distressed by the thought that we are arguing that the people should go to hell in their own way. Well, as long as we have to go to hell, we had better go in our own way than in the congressional way; and, incidentally, hell will not be any cooler which ever route we take.

Mr. Brennan is also greatly concerned because we have not pointed out any specific mistakes which Congress has made in the declaration of war in the past. He seems to be under the impression that we should libel Congress with the grossest incompetency and inefficiency; that we should picture a congressman as reclining at an angle in an easy chair, his head wreathed in Havana smoke, with his shoes equipped with spurs to keep his feet from sliding off the mahogany table. But to the contrary, we do not look with disparagement on our national legislature. We believe that Congress, as a whole, is an intelligent group, decidedly above the ordinary; and that it is perfectly competent to handle the ordinary run of legislative business. But the question of war is not ordinary; it is decidedly extraordinary. The dead stay dead. The debts must be paid. Nor do we have to show any glaring faults in the present method before we can be justified in our proposal. It is not necessary to show instances in which the present system has failed, in order to advocate an improvement. Our entire conception of progress is that of an advance from good to better; and it is entirely consistent to say that Congress has made no glaring blunders in past declarations, and still maintain that our present

system might be improved. Take a homely illustration of a trestle which has a weak place in it. The mere fact that twenty trains have passed over it without breaking through, does not mean that the trestle could not be improved; nor does it mean that we would not be better off to have it improved. Would Mr. Brennan argue that just because he had failed to contract small-pox in his twenty-one years of life that he, therefore, should not be vaccinated against it? Although it may never have happened, the fact remains that 26 per cent of Congress might declare war; and it is undeniable that a vote of representatives does not as accurately reflect the consent of the governed as a vote by the governed themselves. For these reasons, we hold that the present method, as applied to aggressive wars, is subject to improvement. It is not necessary to show failure; but it is simply necessary to show the possibility of failure.

To review the argument of the Affirmative thus far, we have shown that declaration of war by the people is fundamentally sound because it is practical in its achievement, and because it is an added step in the natural growth of democratic government.

Now, to complete the Affirmative case, it shall be my purpose to show that declaration of war by the people would promote peace, first, because it would tend to remove the influence of private and corporate interests in the decision. Now, Mr. Brennan has reviewed at some length various declarations of war by Congress, with the votes, what Senator Hitchcock said, and so forth. But, to use his own language, "he studiously refrained" from reviewing what went on before the votes were taken; what influences inspired the senators to make such patriotic speeches. Let us reason this matter out together, and I am sure we will all be able to see just what part the industrial magnates play in the declaration of war. Senate Document No. 257 of the *Congressional Record* contains 388 pages showing profits made by concerns whose products are used in war. The results are almost unbelievable. Among the industries engaged in the manufacture of such products, there is not a single one that did not make 100 per cent on its capital stock during the World War. The earnings of the Anaconda Copper Company in 1914 were about \$4,500,000; by 1919 it had paid a debt of \$15,000,000, expended \$54,000,000 for improvements, and had a surplus of nearly \$40,000,000 in its treasury.

The United States Steel Corporation during 1917 showed a profit of \$888,000,000. One steel corporation made as high as 2,584 per cent on its capital stock. One hundred and thirty-five coal companies increased their earnings from 100 to 150 per cent; twenty-one from 100 to 500 per cent. Now, where financial interests reap such stupendous profits through a nation's participation in war, it is almost certain, considering the frailties of human nature, that they are going to bring every pressure possible to bear to get war declared. If you or I were going to make \$50,000,000 if the United States entered into war, without danger to ourselves, it is quite likely we would wire our congressmen, have all our friends wire their congressmen, and we might even go to Washington ourselves to do what we could to get the matter started. And experience demonstrates that such is the case, as sworn to by former United States Senator R. F. Pettigrew. Now if the declaration of aggressive wars is placed in the hands of the people, the influence of these private interests will be very much minimized, as the difficulty in bringing pressure to bear on the masses of people is very much enhanced. It is true, that there can be some influence applied by way of propaganda of various descriptions; but, when the individual voter goes to vote, protected by the secrecy of the ballot box, he is not going to be influenced very much by what is told him. The millions of men who went through the last conflict, and paid its price in trench rats, lost limbs and shell shock; the solid ranks of mothers whose boys returned maimed, or did not return at all, the millions of wives and the millions of sweethearts, and millions of voters still paying the costs and taxes from the last war, and who must sustain all the burdens of the proposed conflict, are going to vote pretty much their honest conviction when they go into the booth. Therefore, by placing the vote of war in the hands of the people, we feel that this plan will have a very direct influence in minimizing aggressive warfare in the future; we feel that the pressure of private and corporate interests, so manifestly brought to bear now upon Congress, will be largely nullified when applied to the great masses of people; and we feel, in brief, that this is a plan which will not only decrease war by checking those who take the profit out of war, but is a plan which will in the future prevent the marching forth of Americans into aggressive war without first securing their own consent.

Second, declaration of aggressive war by the people would promote peace because it would compel careful consideration before action. Mr. Brennan has commended the deliberation exhibited by Congress in past wars; but he has failed to point out that this deliberation has never endured more than a few days, which, compared to our plan, is exceedingly brief. As heretofore pointed out, to declare war in those cases where we are invading another country, which has not declared war upon us, it would require from two to six weeks to ascertain accurately the consent of the governed on the question. This delay would give a breathing spell during which the entire question would be thoroughly aired and discussed; and this breathing spell would tend to avert war and this on a very old principle. Undoubtedly, when you were a little boy, your parents taught you to count to one hundred before you spoke or fought. The idea was that if you counted to one hundred, you would probably act and speak more wisely. This same principle has been applied to nations and is the basic principle governing all our courts of arbitration since the first Hague Conference of 1898. It is a cardinal rule of the League of Nations, which by Article 12 of its Covenant, compels a member nation to abstain from war for a period of nine months during an attempted arbitration. Incidentally, it is to be noted that since this League of Nations Covenant is binding upon seven-eighths of the countries of the world, the United States can have little need of great haste in commencing aggressive hostilities. Now, under our plan, during the period of diplomacy, the debates in Congress, and the taking of the national vote, the subject will be thoroughly discussed, not only on one, but on both sides. The passions of the moment will have subsided and the decision will be made upon the basis of a studied and deliberate judgment when all the facts are known. Ladies and Gentlemen, we urge a proposition which safeguards us against the mistakes of momentary excitement. We urge a proposition which will compel deliberation on this most momentous of questions, which substitutes the well-considered, accurate consent of the governed for the all too often fevered decision of a lobby-influenced group of representatives—a proposition which, in short, means our invasion of a foreign country only upon the cool approval of a majority of the people, which can only mean minimizing of aggressive warfare.

And finally, declaration of aggressive war by the people would promote peace because public opinion is rapidly coming to condemn such conflicts. Irrespective of what Mr. Brennan may ably claim to have been the status of the public will in past wars, there is little question about popular opinion at present, which is the really important consideration in determining the future benefits of our plan. Every major body of the whole Protestant church, comprising some twenty-five millions of people, has since the World War made such positive and absolute declarations against war in all its forms, and has so definitely withdrawn the church from ever again creating, as they did in 1918, the great moral purposes of war, that it is doubtful if they ever can retract their word. The Federated Council of Churches of America, controlling one hundred and fifty thousand churches, the National Organization of Women's Clubs with clubs in every town and city in the United States, have since the war declared in national convention their absolute and uncompromising opposition to war in all its forms. In the case of a popular war referendum, these three great faculties for the formation of public opinion—the churches, the schools, and the women of the United States—could always be counted upon to throw their entire strength in the issue on the side of peace. There are few men and women in this or any audience who would not, in spite of propaganda, think long and seriously before voting to wage an aggressive war against another country. Even the militarists recognize this popular attitude, for only by high-flung and catchy slogans, and by lying and distorted propaganda, have they been able to make the American boy maim and kill another human being. The fact that the American public fought the World War to forever "end war" is evidence sufficient that its attitude is to be forevermore averse to the awful destruction and suffering of another conflict. It is self-evident that if public opinion condemns aggressive conflict, as it does, then when such a conflict is to be declared by popular vote, it will lessen war and promote peace. Ladies and Gentlemen, we offer a plan which is not a novel one, but which is a national extension of our democratic government on the principle of the referendum now used in thirty-nine of our forty-eight states. We offer a plan applicable only to cases where the United States is sending her army into a foreign country to wage

war against a nation which has not declared war against us, which plan can be executed with ample speed by our ordinary existing election machinery; and in offering this plan we submit that there is a law which is higher than the Constitution, and that law is the great common mind which sanctioned it. There is a judgment more accurate than that of Congress, and that is the judgment of the people who created it. There is a voice more resonant than that of the war profiteer, and that is the voice of the millions who must pay his profits, and fight his battles. And there is a force more powerful than that of insidious propaganda; and that is the force of an honest public opinion. And, if there is ever to be a more perfect harmony among men, if there is ever to be a more pleasing melody in being, it must ascend surely from the mind of the people when they sincerely possess a genuine repulsion for strife, and experience a devout hungering for peace. Such a feeling can best be inspired by giving the people the final voice in the declaration of aggressive war.

In conclusion, the Affirmative case has shown this evening that declaration of war by the people is fundamentally sound because it is practical in its achievement, and because it is an added step in the natural growth of our democratic government. And further it has shown that declaration of war by the people would promote peace because it will tend to remove the influence of private and corporate interests in the decision; because it will compel the careful consideration before action; and because public opinion is rapidly coming to condemn such conflicts. We, therefore, submit that this proposition should be answered in the affirmative.

FIRST AFFIRMATIVE REBUTTAL

William Berger, Southern California

MR. CHAIRMAN, LADIES AND GENTLEMEN: Before beginning a critical examination of the major contentions of the opposition, I should like to refer briefly to one or two technical objections which they have made to the precise plan that we have proposed here this evening. The first is embodied in the question propounded to us by Mr. Leonard, which is as follows: If the people desire to declare war, and Congress is opposed to

it, how will your plan carry out the "inherent right" of the people? The gentlemen apparently insist that our plan must embrace both an initiative vote by the people and a referendum. In other words, they believe that this question requires that the people should have the right to declare war, not only when Congress submits the proposition to them, but whenever they want it. A recourse, however, to the phraseology of the debate question reveals this objection to be unfounded. It reads: "War, except in cases of invasion or rebellion, should be declared by the people." Now what does this mean? It means that aggressive war, whenever it is declared, should be declared by the people. It does not mean that the people should declare war whenever they want it. For example, suppose we were debating the question: Marriages should be performed only by duly ordained ministers. This does not mean that a minister can go and perform a marriage whenever he wants to. It means that when a marriage is performed, it must be performed by him. The question must be submitted to him first by two competent parties. It is the same with this debate question. It does not mean that the people can declare war whenever they want it; but when a war is declared, it must be by the people. The question must be submitted to them first by Congress. I have stressed this point because many of the objections which our friends of the opposition have voiced against this plan—such as that the people have not the necessary knowledge, and that they are easily aroused by war hysteria—apply only to an initiative, which the proposed plan does not embrace.

Again our opponents are much concerned over the question of who is to decide when there is an invasion. This objection is too trivial to take seriously. It is like asking who is to decide when the President needs a haircut. Fortunately, we do not have to split hairs with our opponents upon that point. Under an act of Congress, and under the Constitution, for over a century, the President has always had the power to call out the troops in case of an invasion. He has never had any difficulty in deciding this point in the past, and we believe he will be equally able to determine it under the Affirmative plan.

Having disposed of these minor objections, let us consider some of the major criticisms which our opponents have made.

Mr. Leonard has emphatically and repeatedly asserted that the plan would be too slow and cumbersome in operation, that it would require many weeks to take a national vote and that while the vote was being taken, we might be attacked. But this objection is ill-founded. You will recall that I pointed out early in this discussion, that this plan will be used only in cases of aggressive war. It does not apply to cases where another nation is attacking us. In such instances, we are in war, whether we want to be or not, and the formal declaration is of no consequence. For example, take Mr. Leonard's illustration of the Japanese fleet within five miles of our coast. Suppose, under the present plan, at this critical juncture, Congress was not in session, and our senators and representatives were scattered over Europe and elsewhere. Would the President be compelled to wait, until Congress assembled and we had a formal vote on war, before he could act? Obviously not. Under our plan the same result would follow. It will be used only when this nation wants to send its manhood out to fight another nation when that nation has not declared war against us. In such a case, the fact that under this plan several weeks would be required to execute a declaration, is a distinct advantage, for aggressive wars are rarely, if ever, justifiable. Any plan which makes such wars harder to declare, or slower to declare, is eminently desirable. The slowness of this plan, far from being a drawback, as our opponents have asserted it to be, is one of its outstanding merits.

Mr. Brennan, with excellent rhetoric and considerable ingenuity, has argued that the plan we propose is contrary to the principles of representative government. My Friends, far from this, the proposed plan is in sympathy with that theory of government. The trouble with modern representative government is that, like modern feminine apparel, there is too little of it. It is not good representative government when congressmen are elected on issues such as farm relief, and then are obliged to guess the people's will on a vital question of war arising subsequent to their election. This is a defect in representative government which the plan we propose remedies. By remedying this defect, this plan will actually strengthen our system of representative government.

The last Negative argument which I will have to consider

is the one relative to failures in the present system, first raised by Mr. Brennan, very ably followed up by Mr. Leonard who attempted to expose a fallacious analogy by showing that merely because there were no failures in the present system, it did not follow that the present system was weak. Of course, it does not mean that it was weak, nor does it mean that it is strong. That is the point of our argument. The mere showing that a system has not failed does not mean that it is all right. We have pointed out two specific weaknesses in the present system in the points that 26 per cent of Congress might declare war, and the length of time intervening between an election for Congress and the declaration of war, which weaknesses make the present system less accurate in reflecting the consent of the governed than our proposal. It is not necessary that we point out specific instances in which the present system has failed, for the mere fact that there are no failures proves nothing either way. It is no argument against our plan that the present system has operated satisfactorily in the past. I suppose our opponents would wait until drowning before they considered it necessary to learn how to swim. If the world waited until a thing were absolutely necessary before adopting it, we would be in the same state of civilization today that the founders of the human race were in, following their hegira from the Garden of Eden. I believe that we have shown sufficient advantages which the plan we propose possesses over the present system, to warrant its adoption in the eyes of rational individuals.

SECOND AFFIRMATIVE REBUTTAL

Leland C. Tallman, Southern California

MR. CHAIRMAN, LADIES AND GENTLEMEN: Mr. Leonard objects very strenuously to that step in our plan which permits Congress to submit the proposition of war to the people. He says the question does not read that Congress and the people shall declare war, but that only the people can declare it. Now as long as Mr. Leonard is so industrious in the matter of exposing fallacies, let us examine his own house a little. Let us get back to the question we are debating. It reads, "Resolved, that war, except in cases of invasion and rebellion, should be declared by a direct vote of the people." Now,

analyze this with me, and see just what it means. It means, obviously, that no aggressive war should be declared except by vote of the people. Congress cannot declare it. But, under our plan, Congress has absolutely no power to declare war. In case we are going out against another nation which has not commenced hostilities against us, the people must vote favorably. But it must be submitted to them in some way; and so Congress submits it. If, however, a majority of the people vote against it, no war can be declared. Perhaps the vice in Mr. Leonard's argument can best be exposed by a simple illustration. Suppose he should decide to submit a proposal of marriage to some fair damsel; and suppose further, that, for some unaccountable reason, she should refuse. Under Mr. Leonard's logic he would contend that *he* had finally decided not to marry her. As a matter of fact, he had very little to say about it. The young lady had the absolute and only authority in determining whether she was to enter into that particular war or not; and the only thing which you did, Mr. Leonard, was to submit the proposition. Similarly, the only power of Congress is to submit the proposition.

You will recall that Mr. Leonard also told you that the people would be unable to obtain information essential to a wise vote under the Affirmative plan. Now, such an argument sounds very plausible; but let us see just what information the people would have to have. Our opponents seem to have neglected the part that Congress is to play in the matter. As heretofore stated, Congress first debates the proposition, prior to submitting it to the people. Of course, Congress will not submit the matter, unless it believes we are ready to go to war. In submitting it, Congress would examine into the state of preparedness, the strength of our army, navy, and aircraft, our munitions factories, and so forth, just as it does at present. It would take cognizance of treaties, and after considering everything just as it does now, if it should determine that we were ready to go to war, it would submit the proposition to the people. Now, when the proposition was submitted to them, the people would know that we were in a position to declare war, just as they know it at present. The only question, then, for the people to decide is that, admitting that our nation is prepared to go to war, do they, the people, wish to go into it?

They need no involved or secret information of any kind. This argument of our opponents only demonstrates that in our plan we have every single safeguard and merit of the present system, with the check of the people in addition.

As I sat at my table, I was carried away by the eloquent way in which my opponents pictured the evil influence of propaganda upon the people under the Affirmative plan. *This contention of the gentlemen has seemed to alarm them greatly.* Carrying out their logic we might well imagine that, sometime in the future, since England has control of the coffee and rubber markets of the world, Britain would try to stampede us into a war by the cry, "Bigger and better coffee pots" or, "Make the world safe for rubber tires." Now let us take a specific contention of Mr. Leonard and see just where it leads. He has contended that opposing newspapers will deceive the people, that alien propaganda of one sort and another will have us into war half a dozen times in as many months. Now let us see how this operates under our plan. As stated, Congress first debates the matter to determine whether to submit it to the people. It is to be presumed that the same propaganda influences Congress, but irrespective of this, suppose Congress votes in favor of submitting it to the people. Right there, under the present method, we would have war declared; and we would be engaged in hostilities—six weeks to several months, according to the time calculated by Mr. Leonard—before we could even get to a vote under our own, and this supposes that the people vote favorably. So that, if we admit the entire Negative argument as to mob psychology and the effect of propaganda on the so-called ignorant masses, we are still several months better off than we are at present. But we do not admit that the people would be influenced greatly on the question of war by propaganda, or that they would necessarily vote favorably when the election arrived. If you go to vote on the question of whether you want to be shot at or not, protected as you are by the secrecy of the ballot box, we do not believe you will be influenced much by such slogans as "Keep that school girl complexion" and "I'd walk a mile for a Camel." In any event, we feel that it will be much more difficult for the war profiteer by propaganda or other means to influence the masses of individual votes in booths than it is to bring pres-

sure on the comparatively small number of persons comprising Congress; and for this reason that it will tend to decrease such influence.

Ladies and Gentlemen, we believe that we have met the salient arguments the Negative have advanced against the Affirmative case this evening. We believe that the plan of the Affirmative stands intact and that it has weathered staunchly the storms of Negative oratory. We, therefore, submit once more this proposition should be answered in the affirmative.

NEGATIVE SPEECHES IN DEBATE AGAINST THE UNIVERSITY OF NEVADA

FIRST NEGATIVE

Raymond L. Brennan, Southern California

MR. CHAIRMAN, LADIES AND GENTLEMEN: My attention was attracted to the opening statement of Mr. Berger where he recalled to your mind the remarks once made upon the subject of war by a famous American general. I take it that this alluded to the conclusion of General Sherman that "war is hell." Mr. Berger then continued with a great deal of fervor to urge that the people have the inherent right to declare war. From these two arguments, I was forced irresistibly to the conclusion that Mr. Berger wishes the people to have the inherent right to go to hell in their own way.

Now, the argument of my suave opponent proceeds upon the theory that his plan, and only his plan, permits the people to exercise this right, while our method of representative government operating through Congress nullifies it. He seems to think that the people's rights cannot be exercised, or their wishes represented, except by a direct vote; but let us see whether Mr. Berger is correct in this assumption. First of all, he has failed to take into consideration the fact that the majority of those who go to war are between the ages of eighteen and twenty-one, and under the Affirmative plan they are denied the right to vote, and they have no way to express their opinions. As a matter of fact, only thirty millions out of one hundred millions actually ever vote, so we see that under the Affirmative plan, those who actually bear the brunt of war are prohibited from exercising this so-called inherent right.

The Negative does not question this inherent right, but we are concerned that this right be exercised in the best possible way. I shall show you in a few moments that Congress represents all of the citizens, and has never failed to represent the will of the people by entering a war which they did not wish. The question, therefore, is again one of weighing the Affirmative and Negative plans as a whole; not a question of denying an inherent right, but a question of which plan more adequately exercises that right.

Now in a debate, the Affirmative team must show why the power of declaring war should be given to the people, by advancing evidence sufficient to outweigh that which is given by the Negative, for it is upon the Affirmative that the burden of proof rests. Mr. Berger has just impliedly accepted this burden by stating they will base their case upon the following contentions: first, that a declaration of war by the people is fundamentally sound, and that a popular vote on war would promote peace. Now, if you were being asked to adopt an untried plan in government, what would you say must be proved? First, of course, you inquire: What is the matter with our present system? Surely the one hundred and thirty-eight years of our history is sufficient to see if there are any faults in our existing method. Unless the Affirmative can show some flaws, they admit our present system is operating successfully; and so if we adopt their plan, we are merely hazarding a new scheme which has all possibilities of doing injury, but of improving no defects. And, second, once they have shown that Congress has made mistakes in entering past wars, they must show that a popular vote would have avoided these mistakes without bringing with it also so many other evils as to outweigh the good. And chief among such evils, is the strong probability that in practice it will be so slow and cumbersome as to be useless for purposes of declaring war, and actually dangerous to our national safety. It seems to us that this analysis reveals the logical steps which the Affirmative must prove in order to establish their case. In opposing them, we propose to base our case upon past evidence, and will meet them on each of these fundamental issues, proving not only that our present method merits retention, that is, that no change is necessary, but, even if some change seemed desirable, the

Affirmative plan would be so vicious, and impractical as to make its adoption out of the question.

In opening the case for the Negative it shall be my purpose to show that our present method of declaring war merits retention, first, because declaration by trained representatives is superior to the entire populace. Now, Mr. Berger has devoted a large portion of his argument to the proposition, or rather the assumption, that a direct vote of the people must necessarily be more beneficial than a vote of their elected representatives. But in examining the truth of this statement, let us hark back to the foundations of our nation. In 1787, the leaders of the thirteen colonies met in the Constitutional Convention to determine upon a theory of government. Having all been intimately associated with the practical operation of the separate colonial governments, understanding the working of foreign powers, and knowing of the failure of early popular democracies, they were unanimously in favor of a representative form of government, that is to have legislation passed, not by a direct vote of the people, but by a body of persons selected by the people to represent them. They realized that the people could not take time from their daily labors to delve into, and study out questions of government, and so it was better to permit a more intelligent judgment by expression of the people through specially trained representatives. Therefore, the power of declaring war was placed in the hands of Congress and the President. The practical operation of this representative system has repeatedly justified the anticipation of the framers of the Constitution. Each senator has served on an average of over twelve years in the Senate, devoting his full time to actual law-making, and many in addition, have records of long standing in the House. On an average each member of the House Representatives has had seven years of experience in that body. And the caliber is even higher in committees. The Foreign Relations Committee, that group of the Senate which first passes on all war measures, is composed of eighteen men, five of whom have been governors, one a minister to a foreign nation, many with previous legal experience as long as thirty-two years, and all with degrees of collegiate training. The effect of the people's governing themselves through highly specialized representatives is "to refine

and enlarge the public views by passing them through the medium of a chosen body of citizens whose wisdom may best discern the true interest of the country, and whose patriotism will be least likely to sacrifice to temporary or partial considerations." Under such a system as we have at present, it might well happen that the public voice pronounced by the representatives of the people will be more consonant to the public good than if pronounced by the masses of people who have neither the time nor the experience to study out the many questions involved. Which is it best to do—to give this decision to the entire populace, or to place that responsibility in a Congress trained in the art of government? The answer is not doubtful. The Negative favors the latter, a plan which permits specialization by a body which devotes its entire time to the study of governmental problems, a plan which places responsibility in men with years of experience in their respective houses, a plan which gives power to representatives with minds highly educated for governmental service, and which guarantees an expression of the best judgment our nation can render.

Second, our present method of declaring war merits retention because Congress has exercised the power wisely throughout the past. Now, throughout Mr. Berger's discourse, I am sure you did not fail to notice that he studiously refrained from any allusion to mistakes of Congress in the declaration of past wars. The Negative considers this a vital issue in this debate; for, if Congress has been guilty of no errors in one hundred and thirty-eight years, we should consider carefully before adopting a new system which possesses many elements of danger. Let us take up this subject which my eloquent opponent has so thoughtlessly omitted. The United States has been engaged in thirty wars. Twenty-two of these were Indian wars, which can hardly be dignified by the name, and are certainly not applicable to a discussion on the modern declaration of war. The Revolutionary and Civil wars were wars of invasion or rebellion, so are excluded by the resolution from this debate. This leaves us a group of conflicts, chief among which are the War of 1812, the Mexican War, the Spanish-American and the World War. The causes of the first of these—the conflict with Great Britain—lay principally in the impressment of American seamen. A British warship would stop an American mer-

chant vessel on the high seas, inspect the crew, claim that three or four of the sailors were British deserters, and compel them to go on board the warship. In addition, an Indian uprising of 1811 was encouraged by the British, causing a great loss of American life. No one has particularly questioned the justice of this war; and for over one hundred years since England has paid respect to our ideals of neutrality and has been one of our closest allies in international affairs. The war with Mexico in 1846, in reality, had its cause in the recognition and annexation by the United States of the Republic of Texas. Albert Bushnell Hart in his *History of the American Nation* says: "The annexation of Texas to the United States was on legal, moral and political grounds entirely legitimate. The republic had defied the prominence of the mother country for nine years. It was recognized as an independent nation by the leading commercial powers of the world." Even after this annexation, no war would probably have resulted had not Mexico attacked the troops of General Zachary Taylor in Texas on April 25, 1846, which attack precipitated the war. The Spanish-American War shows deliberation and a wise use of war declaring power by Congress and the President. Over two years before its actual declaration, Congress virtually authorized the President to recognize Cuban independence which would have meant the beginning of hostilities. But the President and his cabinet ignored the action. Then after two years when conditions became unbearable, the President with all the advice and counsel of the trained men of his cabinet, issued his message advocating intervention. For two days the House of Representatives had nothing but enlightening discussion, backed up with months of previous debates to weigh the evidence and decide in favor of the President's action by an overwhelming vote of 324 to 19. For three days more the Senate continued their debates to decide with the House, and then after a lapse of ten days the President, with all of these months of argument, approved the action, and we began war with Spain—action which even the peaceful W. J. Bryan advocated three weeks before its declaration—and which resulted in justice and freedom for a struggling sister state, Cuba. The vote for war against Germany in 1917 met with this same careful consideration. Several hundred pages of fine print in the *Congressional Record* show the deliberate action and rea-

sons for going to war, and these reasons take into careful consideration the desires of the people. Mr. Gallinger, the senator from New Hampshire, in substance said that the predominant and overwhelming sentiment of the people from his state favored war. The senator from Texas said his state expressed the unanimous support of the President, who advocated war. The same attitude was expressed by Senator Owen from Oklahoma. Senator Hitchcock of Nebraska said, "I have been bitterly opposed, but I knew that the people of the United States were calling for war," and so on down the roll. And this is just a partial array of one little bit of evidence which shows that the people favored war—evidence which caused an unquestioned expression of true opinion when the final war vote came, being 82 to 9 in the Senate, and 373 to 50 in the House of Representatives. We confidently trust that you as thinking individuals are too clear-headed to give up the system that requires mature deliberation as much as two years before war is declared; too intelligent to take power from a Congress and President who, in every single war in our history, have enjoyed the support of an overwhelming majority of the people; too enlightened to take responsibility from bodies in whom the people are so anxious to place their confidence in every crisis; too wise to attempt to bring on conflicts by giving the only right of declaring war to the populace swayed by momentary sentiment. We know you will not fail to recognize a system that has not only never declared war without justification, but which in each case has derived fruits which have glorified the wisdom of their declaration, a system which truly holds no hazard for the future.

In conclusion, we have thus far shown that our present method of declaring war merits retention because declaration by trained representatives is superior to the entire populace, and because Congress has exercised the power wisely throughout the past. My colleague will show you that declaration of war by the people would jeopardize national safety.

SECOND NEGATIVE

Adna W. Leonard, Jr., Southern California

MR. CHAIRMAN, LADIES AND GENTLEMEN: Before proceeding further with this debate, let us examine a certain weakness

which exists in the proposed plan of our opponents, but which they have thus far rather cleverly concealed. They propose to have the declaration of war first submitted to Congress by the President. Congress will then debate the proposition, and vote upon it; but instead of this vote resulting in a declaration of war, it will be a vote to submit the matter to the people for their decision. Now, let me point out to you that this provides for a declaration of war by the people only when Congress wants it declared. There is no provision made for a declaration of war by the people if they desire to declare it; and so the easier to expose this defect in our opponents' proposition, we desire to ask them the following question: If the people desire to declare war, and Congress is opposed to it, how will your plan carry out the "inherent right" of the people? We trust the gentlemen will find opportunity to give this matter consideration in their next appearance on the platform.

Now, throughout this debate, we have called upon our opponents to show us some instance in which the present method of declaring war has failed. This, they have neglected to do; and in justification of their omission, they attempt some kind of an analogy with twenty trains passing over a weak trestle, arguing that just because those trains have passed over safely, it does not mean that the trestle is not weak. Certainly not; but on the other hand, it certainly does not prove it *is* weak. This, Mr. Tallman assumes; and in doing so, he assumes the very point in dispute. The burden is upon the Affirmative to show some weakness in the present system. It may possibly be that, merely because there are no failures, it does not follow that the present system is not faulty; but it certainly does not sustain the proposition that it is faulty. This the Affirmative must prove; and they cannot do it by assuming it is weak in the first instance.

Thus far in the debate this evening, the Negative has shown that our present method of declaring war merits retention, because declaration by trained representatives is superior to the entire populace, and because Congress has exercised the power wisely throughout the past.

In continuing the argument for the Negative, it shall be my purpose to show that declaration of war by the people would jeopardize national safety, first, because it would be too slow

and cumbersome. Now, Mr. Tallman has considered the slowness of the Affirmative plan, and has sought to find merit in it by the possibility that it will prevent hasty action. By way of illustration, he tells the story of the little boy who was told to count to one hundred before he spoke or fought. But Mr. Tallman forgets that the declaration of war is not a matter upon which long deliberation is always wise. The vice of his argument can readily be exposed by telling you the rest of his story, which he failed to recite. A few days after the little boy had been told to count to one hundred, he came home with his face all battered up. His mother, upon viewing the disaster, exclaimed, "Why, Willie, you have been fighting! I thought I told you to count to one hundred before you fought any more. Why didn't you do it?" And Willie, through his swollen lips, sobbingly replied, "I did, and that's just what's the matter. I counted to one hundred, but Johnnie Jones' mother only told him to count to fifty." And this is the difficulty with Mr. Tallman's careful consideration. Now, to demonstrate its absolute impracticability, we need only carry a concrete case of a national election on war through the various necessary steps. Let us suppose that a Japanese fleet comes within five miles of the Pacific coast and stops. Now, we must first determine whether this is an invasion, for if it is not an invasion, it must be submitted to the people. Who is to determine it? If we suppose the decision rests with Congress, which seems to be the Affirmative idea, then we go through several days' argument over the matter to get a vote in both House of Representatives and Senate. Probably this would not be an invasion, as no foreign force has entered our territory. It must then be submitted to the people. An order is given to the United States Government Printing Office for thirty million ballots? Now, who is to phrase the question on the ballots? It is manifest that the question might be phrased so ambiguously that the people would not know what they were voting for; or it might be phrased in such a manner as: "Shall we make the world safe for democracy?" just to prejudice the vote. After we have the question phrased, then the ballots must be printed, which with the fastest printing presses, would consume many days. The ballots must then be distributed all over the country, to the mountainous regions

and the deserts, to every precinct in every village and city of the nation. Two or three weeks must certainly have elapsed before we get to this stage. We are still far from an actual vote, and nobody knows what has become of the Japanese fleet. Then the date of the election must be fixed by either proclamation of the President, of the several governors of the states, or by Congress. In the meantime, the people of the nation must be sufficiently informed and advised so they know what they are voting about. How long it would take to inform the people of the various issues at stake is, of course, only a matter of conjecture, as it has never been attempted; but judging from other national elections, it could not be done in less than a space of several weeks. Finally, however, suppose we get a vote taken. The ballots must then be counted. While we could get an unofficial count within a few days, it would certainly take a week or two before we could get an absolutely accurate official count, which would be necessary on such an important decision. The vote might be very close, and a recount be demanded. Some citizen might determine that there were irregularities in the election, and seek to enjoin all proceedings through an injunction in the United States courts. These are but a few of the practical aspects of taking an actual vote. It is clear that under no possible theory could we get a war declared in a less period than two or three months; but suppose that we even got a decision in six weeks. We are then in the position of having declared an aggressive war against Japan. In the meantime, what has Japan been doing? She has, of course, been preparing to defend herself with every facility at her command. We can well imagine that the sky off San Francisco would be clouded with aeroplanes; and no sooner would the result of the referendum be known than we would hear the crack of enemy guns. The entire proposition seems preposterous when subjected to actual practice. It is as though I sat there at the table, my head buried in my hands, trying to decide whether to fight with my opponents. While I sit there, Mr. Berger loads a cannon over near the door, takes careful aim at my head, and stands by ready to discharge it. In the meantime, Mr. Tallman places a charge of nitro-glycerine under my chair, and prepares to set it off. Finally, I lift my head. I rise to my feet and declare with great de-

cision, "I have decided to fight." Immediately my head goes out the window, and the rest of me goes through the ceiling.

Ladies and Gentlemen, in practical application, the plan of our opponents is cumbersome and unwieldy, consuming weeks in determining the question of invasion, printing and distributing the millions of ballots, informing the people, and counting the vote. It means tedious action where speed is absolutely essential. And it means giving our enemy such time to prepare that it would be foolish for us to attack—in other words, it would make the waging of an aggressive war little short of national suicide.

Second, declaration of war by the people would jeopardize national safety because the voters would be unable to obtain secret information essential to a wise vote. The Affirmative case thus far has absolutely failed to explain how the voters are to learn about the issues involved and the arguments for and against a war declaration. Now before the most intelligent citizen can determine whether we should go to war or not, there are certain facts which that citizen must know. Primarily, he must know the exact status of our military condition. How many aeroplanes have we? How many of those aeroplanes are fit for service? How many dreadnaughts, cruisers and torpedo boats have we, and what ones are in condition for war? What is the precise status of our submarine fleet? How many of these ships and submarines are sufficiently modern to be useful in a coming war? Then how many factories have we for the manufacture of munitions of war, and would our output be sufficient in case of hostilities? Then there is the question of what treaties will be affected. For instance, if we are voting on a war with Japan, it would be necessary to know whether any treaties existed between Japan and England, China and England, or the United States and China. These are but a few examples, by way of illustration, to show what any intelligent citizen would have to know, in order to cast a vote upon this important issue. Now in the first place, it is obvious that such information could not be given to the public. It would apprise our proposed enemy of our exact condition in men, arms, ships, aeroplanes, and the other instruments of warfare. To give such information to the public enemy would be again little less than national suicide. But

even suppose that we could give such information, how would it be given? About the only possibility is the press. Part of the newspapers would be in favor of war, and part of them against it. Those in favor would exaggerate our arms and munitions, tending to show we were in perfect condition for the conflict; while those opposed would minimize our preparedness, tending to show we were in no condition to begin hostilities. Ladies and Gentlemen, to support their case, our opponents must embrace a hopeless dilemma. To obtain an intelligent vote, they must get certain vital information to the people. To get it to the people they must advise our enemies of our precise state of preparedness. If the people do not get this information, they do not know what they are voting about; and if they do get it, it must come through conflicting and uncertain newspaper items. To merely state these matters is sufficient to demonstrate the absolute impracticability of the proposed action.

And finally, declaration of war by the people would jeopardize national safety because bitter antagonisms would seriously obstruct a vigorous prosecution of the conflict. America has always, up to a few years ago, held the policy of open door; and foreigners from all shores came to enjoy our privileges. There are now over thirty-six million people in the United States having one or both of their parents foreign born. These people must have a more or less strong attachment for their native country. Now, if the United States were declaring war against another, that war would vitally affect various foreign nations; and these foreign nations would not be slow to propagandize the aliens in this country for or against the proposal. Then our country is one of vast expanse, and on most questions of war, one section would favor it while other sections would be opposed. In the case of war against Japan, undoubtedly the Pacific coast section would favor it while probably the southeast would oppose it. The question of war always raises feeling to the highest pitch; and between foreign aliens, propaganda and sectionalism, popular temper would reach a fever heat by the time the actual election took place. Now, suppose around thirty million votes were cast, as in the last presidential election. The vote on a war proposition would probably be close, or about evenly divided which would be

worse; but even supposing it were two to one in favor of war. We would then have around ten million people opposing the step. Now, at the present time when a man opposes war, he seldom knows whether he has any followers or not, except possibly two or three of his immediate neighbors. Under a vote by the people, however, he would know exactly that he had ten million people thinking the same way he did. Now suppose these ten million just decided not to go to war, or suppose the whole ten million would actively oppose war. It is manifest that under such circumstances, a vigorous prosecution of the struggle would be seriously obstructed, if not made impossible. Ladies and Gentlemen, the time is not yet when we can expect a foreign nation to hold off its forces while we spend two or three months in deciding whether to attack it. The time is not yet when we can broadcast our state of preparedness to the world at large, and then expect to successfully attack our proposed enemy. And the time is not yet when we can expect ten millions of our people, swayed by alien ties, sectionalism and propaganda, to give freely of their money and lives to vigorously prosecute a war which they oppose. When that time comes, the teachings of Christ will have dominion over the entire earth, hostilities between nations will have ceased, and the declaration of war will have been relegated to those things which are of the past.

In conclusion, we of the Negative have shown, first, that our present method of declaring war merits retention because declaration by trained representatives is superior to the entire populace, and because Congress has exercised the power wisely throughout the past. And second, we have shown that, even if some change were necessary, declaration of war by the people would jeopardize our national safety because it would be too slow and cumbersome, because the voters would be unable to obtain secret information essential to a wise vote, and because bitter antagonisms would seriously obstruct a vigorous prosecution of the conflict.

FIRST NEGATIVE REBUTTAL

Raymond L. Brennan, Southern California

MR. CHAIRMAN, LADIES AND GENTLEMEN: Mr. Tallman, in his convincing manner, has devoted his entire time in an at-

tempt to prove that a declaration of war by the people would promote peace; and he has painted in glowing terms the era of tranquillity that will immediately follow the adoption of their plan. In effect he has tried to convince you that the Negative is arguing for a system which incites war. We feel that the Affirmative have overstated their case, for it is our belief, supported by evidence, that Congress not only wants peace, but actually has kept this nation out of war, in cases where, if the Affirmative plan had been in operation, we would have been thrown into war. The Affirmative proof on this point is to the effect that corporate and private influences would cease to operate under their plan. But, as a matter of fact, the influence of corporations would be far more effective if the question of war were submitted to a direct vote of the people. Some 95 per cent of the people are employed by, or have shares of stock in, corporations, so the people naturally enough would follow the dictates of their interest. The secret ballot would have little effect when the people are dependent on the corporation for their bread and butter. The public mind is moulded by the newspapers and radios which in turn are controlled by the corporation. Congress is much less likely to be stampeded into a conflict, than are the people.

One of the vital points urged by Mr. Berger was that the Affirmative plan is practical in operation. Mr. Berger proceeded to gracefully vault this barrier by leaving us to assume that all their plan amounts to is the President making a quick decision, submitting it to Congress, and the people voting upon it using the regular election machinery, without any intervening difficulties; and presto chango we are either in war or out. You will recall that the President submits the matter first. The Negative feels that there are certain fundamental details of that step which Mr. Berger has failed to bring to our attention. First of all, we want to know who is going to determine whether or not the war is one of invasion? How is it to be determined? Does it mean the invasion of property rights, as the blowing up of the Maine, or would it include only the territorial invasion? If territorial, would it include only the United States proper or would the entrance of an armed force on the Philippines be an invasion? If this latter is not, must we wait several months for a popular vote, and abandon our

islands in the meantime? Then after the Affirmative have solved all of these difficulties, we are confronted with the further problem of having some assurance that Congress, if it has the power to determine what invasion is, will not declare that every war is one of invasion. We do not wish you to think that the Negative believes that Congress will thwart the wishes of the people; but at this point we rely on the Affirmative's own statement that Congress does not represent the people. Basing this upon the assumption of the Affirmative, we cannot see why they can object to our assuming that Congress would still act as they say Congress is acting at the present time. This consideration places the Affirmative in the position of showing us why Congress will not, when it wishes to, decide that a war is one of invasion. If Congress wants peace, they will still declare that it is invasion and refuse in all cases to submit the question to the people. Now, if the vote is close, any individual, including enemy sympathizers, and they have that prerogative, can ask for a writ of injunction to stay action, claiming that there have been election frauds; and if there is a substantial minority, the decision would be tied up in litigation for months, our country thrown asunder, filled with bitter antagonisms, and the nation demoralized. It is the duty of the Affirmative to give us definite proof that their plan is practical, rather than to ask us to rely on mere assertions that it will operate. We feel the Affirmative must answer every single one of these objections to establish their case. We await the next Affirmative speaker.

SECOND NEGATIVE REBUTTAL

Adna W. Leonard, Jr., Southern California

MR. CHAIRMAN, LADIES AND GENTLEMEN: To take up for the last time the tongue-twisted question of failures in the present system, Mr. Berger has just very ingeniously attempted to escape the fallacy of the Affirmative's logic by stating that what they meant to say was that failures in the present system have nothing to do with it. They neither prove its weakness or its strength. To this the Negative most enthusiastically disagree. The fact that there are no failures in the present system, the fact that twenty trains have passed over a trestle

safely, certainly goes to prove that the present system is strong; that the trestle is sound. The burden is upon the Affirmative to show that it is not. This they have attempted to do by arguing that 26 per cent of Congress may declare war, and that the will of the people is not properly represented by a Congress elected some months prior to the war declaration. These two rather imaginative defects can scarcely avoid inspiring thoughts of the President's haircut. There never has been, and one can scarcely conceive of, a situation where only 26 per cent of Congress would be on hand when considering a war declaration. Nor is it desirable to have the will of the people, as it may exist at some particular moment, immediately reflected in such a momentous decision as a declaration of war. Public clamor is fickle, and changes almost with the winds. If we permitted the will of the people to determine upon a declaration of war, we would probably be in war and out of war a half dozen times in a few months. It devolves upon the Affirmative to show that the present system has failed before they may substitute a new one; and this they can scarcely do by splitting percentages over the number of senators who will vote upon the proposition.

Previously in this debate, we asked the gentlemen the following question: If the people desire to declare war, and Congress is opposed to it, how will your plan carry out the "inherent right" of the people? This question, Mr. Berger answered very cleverly, although again fallaciously, in creating an analogy between a minister performing marriages, and the people declaring war. Of course, this comparison is very inaccurate. In performing a marriage, there must always be someone to perform a marriage upon, and that someone is not ever-present. In declaring a war, likewise there must be somebody to declare war upon, but that someone is always present. If our proposed enemy had to submit the declaration of war to the people before they could vote upon it, we would have an accurate analogy; but the fact of Congress submitting it to the people has nothing to do with the betrothed couple submitting themselves to the minister. Let us resort to the phraseology of the question for debate, as Mr. Berger has done. It reads: "War, except in cases of invasion and rebellion, should be declared by the people." Now if this has any intelligent

meaning at all, it means that the present power to declare war, which now resides in Congress, shall, in certain instances, be transferred to the people. The power which Congress now possesses includes the power to initiate war; and if this is transferred to the people, it must necessarily mean also that the people shall have power to initiate war. Our opponents have attempted to take part of the present system and part of their plan and weave the two together. But the question does not read that Congress shall declare war, or that Congress and the people shall declare war; it reads that the people shall declare war, and this precludes any participation by Congress in the declaration.

Now let us review briefly the entire debate thus far. The principal contention of the first Affirmative was that declaration of war by the people is fundamentally sound in that it is practical in achievement; but we have taken up the necessary steps of such a plan and find that we must first determine whether a particular move constitutes an invasion, then we must phrase the question, print and distribute the ballots, fix the date of election, inform the entire populace, and count the vote, all of which would consume weeks where minutes are vital to the nation's safety; that to vote intelligently the people would have to know our exact military condition, the number of aeroplanes, cruisers, and battleships, the precise status of our submarine fleet, the number of munition factories and their total output, and finally what treaties existed, all of which could not be given except through the channels of the press, without apprizing the enemy of our exact defenses, and provoking national disaster; facts which stamp the Affirmative proposal as anything but practical.

The basic argument of the second Affirmative was that their plan would promote peace, but we have given facts to show that foreign nations would propagandize the aliens in this country for or against the proposal, that the various sections of our country would vote adversely to one another, that popular temper, always susceptible to the slightest influence, and fired by alien ties and propaganda would reach a fever heat by the time the election took place, thus rendering a vigorous prosecution of the conflict impossible; and far from promoting peace, would actually instigate war.

These facts, Ladies and Gentlemen, demonstrate that declaration of war by popular referendum would bring far more evil than good.

But the plan means more than destroying the entire theory of American government. It means more than taking this power from a group which has been its wise director for over one hundred and thirty-eight years. It means arraying one section of the nation against the other in a strenuous election campaign, distorted with bitter antagonisms and foreign propaganda. It means either that the people will have no information on which to base a judgment, or that our enemies must be given the exact status of our military preparedness. And it means a slow and cumbersome procedure, a labored declaration of war which renders it impossible for us to strike first, which affords our proposed enemy weeks in which to prepare to repel our attack—and which, as far as attaining its objective in waging an aggressive war, would mean little less than sending out troops to afford target practice for the enemy.

It is to preserve the highest type of representative government; it is to secure the most international peace compatible with national safety, that the Negative opposes a popular referendum on the matter of declaring war.

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CHAPTER VII

AIR SERVICE, A SEPARATE DEPARTMENT OF NATIONAL DEFENSE

VANDERBILT UNIVERSITY

RESOLVED: That the air service of the United States should be a separate department of our national defense.

These are the constructive speeches of Affirmative and Negative teams representing Vanderbilt University in debates with the University of Kentucky and the University of Mississippi. Both debates were held on March 27, 1926, in the series of debates of the Pentangular League, comprising Vanderbilt, Sewanee, and the state universities of Kentucky, Mississippi and Tennessee. In the debate with Kentucky the decision of the judges was two to one in favor of Vanderbilt, and in the second debate two to one in favor of Mississippi. These speeches, also the brief and part of the bibliography, were secured thru the courtesy of Mr. J. W. Norris, Forensic Manager for Vanderbilt University. The major part of the bibliography was prepared by Julia E. Johnsen.

BRIEF

AIR SERVICE, A SEPARATE DEPARTMENT OF NATIONAL DEFENSE

AFFIRMATIVE

- I. The present system is obsolete.
 - A. All recent joint army and navy manoeuvres have forcibly brought out that under modern conditions the fundamental phases of warfare, in the vital strategy of national defense, are no longer limited to a sea action phase and a land action phase; there has developed an air action phase which must occur, in normal cases, after the sea action phase and before the land action phase. In other words, we must rebuild our whole national defense doctrines with all that this involves in our war plans, organization and expenditures, on three fundamentals which have been determined by actual tactical requirements, rather than, as at present, upon only two fundamentals as determined by the administrative organizations involved—the army and the navy.
- II. The present system is unfair.
 - A. Under the present system flying officers are listed in the general files of the army, and are promoted only as the whole army list moves up.
 - B. Owing to the nature of the service, most flyers are comparatively young, and low down in the lists. There will have to be more than five hundred first lieutenants promoted, for example, before over a dozen flyers are reached.
 - C. The flyers do not get even the rather grusome benefit of the deaths resulting from accidents in their own service.

I. Although the flyers constitute less than 10 per cent of all officers, they suffered, in 1924, 60 per cent of all violent deaths, and in 1925, the percentage was 79. They lost $2\frac{1}{2}$ per cent of their total number last year, while the other services lost from violent deaths only $13/100$ of 1 per cent. Yet when a flyer is killed, it is usually a man of some other arm who gets the promotion. This means that the entire air service would be wiped out by peace time casualties inside of forty years, and that the average life of a flyer is less than twenty years. He has little chance of reaching any but the lowest rank unless promotion can be hastened. Also, because of the comparative youth of the flyers, there is a congestion of promotion even within the service, due to lack of prospective retirements for age. In the next twenty years there will be only thirty-eight retirements for age above the grade of first lieutenant out of nine hundred and fifty-seven officers in the air service; many of the lieutenants are even older than the average of captains. So there is nothing for many of these young officers to look forward to but years of service as lieutenants, and eventually retirement without promotion.

III. Present conditions are alarming.

- A. In comparison with other nations as to air power the United States ranks not higher than third or lower than fifth.
- B. The army and navy air services have deteriorated in both morals and equipment, although almost \$40,000,000 have been spent for their improvement.
- C. We are far behind other nations in the development of commercial aviation, owing to lack of encouraging legislation and aircraft facilities and the failure of the government to ratify the international air convention.
- D. The lowering of morals among the flyers is due to obsolete equipment, inequality of opportunity for promotion and increased pay, and the lack of an established, defined policy in the maintenance of our air forces.

- E. War-built airplanes are now either exhausted or unfit to fly, and it is manifestly impossible to train air pilots with anything less than airplanes, just as it is impossible to train sharp shooters with anything less than rifles.
- F. The United States Army rebuilds many war-time planes because it thinks it can do so more cheaply than the aircraft manufacturers. It awards choice contracts to foreign designers such as Fokker, an international dealer with headquarters in the Netherlands. It has imported foreign designers while American aeronautic engineers of proved ability are unemployed. At Dayton, Ohio, the army has as many as three test crews to try out each new type of airplane delivered by the manufacturer. Some bright idea is invariably generated in each test crew, and each idea must be tried out before the machine is acceptable. Last fall a well-known aircraft manufacturing concern received much unfavorable advertising when two racing planes "flew to pieces," killing the pilots. Admitting that the planes were not new, the responsibility is placed by many flyers upon changes made in the planes at Dayton by members of the army staff.

IV. Our air service deserves greater recognition than it is given at present.

- A. The airplane has shown, beyond any question, that it can do certain things which neither of the other arms can do.
 - 1. It can drop bombs of terrific power.
 - 2. It can attack troops from the air both with small bombs and with machine guns.
 - 3. It can move with great speed and on short notice.
 - 4. It has an immense radius of action.
 - a. It has two hundred miles at least.
 - 5. It is not stopped by any of the barriers which are effective against troops or ships.
 - 6. So far it has enjoyed an almost complete immunity from danger except from other aircraft.
- B. These qualities enable air force to accomplish definite services of unique and high military value.

C. In the opening phase of a war the air force would be able to strike instantly, long before either army or navy would be ready for action. It could strike at objectives beyond the reach of either, causing immense disorganization in the enemy's mobilization. It would strike, under proper command, at objectives which had been determined as most important for the nation as a whole, instead of being divided between the other arms, subject to their peculiar interests, and unable to bring full power against any objective. This use of air force is something not provided at all in the present war plans. They do not contemplate putting any offensive air squadrons into action during the whole three months that it will take the army to get ready to move. In the meantime all the advantages that might be gained by a prompt air offensive would be lost.

V. Under the present system the air force is handicapped.

- A. Its mission calls for instant decision and swift action.
- B. The slightest delay in waiting for higher orders or the least blunder due to unfamiliarity with the powers at command or with the moment's situation might spell disaster.

VI. A separate department presents the only satisfactory solution.

- A. If the air force were placed under the control of a separate department, it would accomplish in some measure most of the objects outlined.
- B. It would prevent the assigning of officers from other branches, who have no knowledge of flying, to the command of flying forces.
 - I. This has happened several times in the past, due to lack of high officers in the Air Service, and the results have been harrowing, to say the least, even when these officers were themselves entirely competent.
- C. Such assignments from outside are most discouraging to flying officers, who are thus barred from the natural rewards of their services, knowledge, and risks.

NEGATIVE

- I. The proposed plan is wrong in principle.
 - A. It rests on a confusion of terms.
 - i. Air service and air force are not synonymous.
 - a. Air service contemplates the employment of aviation as a component part of either the military or naval establishments.
 - b. Air force contemplates the employment of aviation as one of the striking forces.
 - B. It is out of harmony with the fundamental strategy of our national defense.
 - i. The fundamental strategy of our national defense is based on the maintenance of a very small standing army and of a navy commensurate in size with our dignity. Our army, on this hypothesis, is not in a state of immediate readiness for war. Our navy on the contrary must be in this state of readiness. Our whole system is based on the hypothesis that behind the strong arm of the navy we can mobilize our army and industrial resources after war becomes imminent. Naval aviation is a component part of the fleet and must be in the same readiness as the rest of the fleet. Military aviation should be of that size and that degree of readiness which corresponds with the size and readiness of the army.
 - C. It is based on a fallacy.
 - i. It is not true that the air constitutes a new objective; it constitutes merely a path for reaching the old objective. Aviation is a new form of transportation, but it has not changed the fundamental, underlying principles of warfare, which have remained the same from time immemorial in spite of changes in the vehicles with which it is carried on.
- II. The proposed plan is revolutionary.
 - A. It contemplates revolutionary changes in the system of administration.
 - i. Every business man knows that sweeping organization changes do not produce the desired results.

III. The proposed plan is unsound strategically and economically.

A. It is unsound strategically.

i. The organization of a third department without a third objective will deprive both the military and naval establishments of authority over an important component part of those establishments. Authority and responsibility must go hand in hand. The army and navy, each responsible for its own mission, must have the authority over all forces necessary for the accomplishment of that mission. The establishment of a separate department might give unity of command over aviation activities, but it would very definitely divide the major command into three parts instead of two. It would be physically impossible to coordinate three separate departments under a Department of Defense. The President, the commander-in-chief, must be the coordinating agency, through a council of defense consisting of responsible unit commanders, the army and the navy, each with its own initiative, its own authority, its own responsibility. The soundness of this principle as applied to business is conclusively demonstrated in the conduct of such corporations as General Motors.

B. It is unsound economically.

i. In building up a new Department of the Air, with all its ramifications of overhead, we shall add to the cost of military establishment. In the organization of a separate department, we shall find it harder to draw the line. This separate department of the air will want cognizance of that portion of the military establishment which handles aviation. In the endeavor to eliminate a small amount of duplication in matters aeronautic between the army and navy, we shall be guilty of duplication within the separate department of military and naval functions, a duplication which really constitutes triplication. Such a triplication cannot help being expensive.

- IV. The advocates of the proposed plan favor a policy of frightfulness.
 - A. They picture an air force as operating against the "nerve centers" of the enemy, utilizing gas attacks and other offensive measures against defenseless citizens. They admit this conception is somewhat unethical at present, but advocate it as taking warfare out of the hands of the "mercenaries" and shortening the time required for a decision. In other words, they advocate a policy of frightfulness on the part of this country, and this in the face of the results of the World War, in which the policy of frightfulness so horrified the world as to bring additional allies to those nations which rejected it.
- V. The accusations of former Col. Mitchell cannot be used as arguments in favor of the proposed plan.
 - A. Col. Mitchell destroyed his whole case when he admitted on the witness stand that "his intemperate assaults on the heads of the army and navy were merely vehement expressions of personal opinion."
 - B. There has been little, if anything, in the conduct of military aviation to warrant these extraordinary charges.
- VI. The adoption of the proposed plan is unnecessary.
 - A. Conditions are satisfactory.
 - B. There have been four official investigations of the aviation situation by as many different bodies.
 - 1. None of them brought charges against the competency and patriotism of the War and Navy Departments.
 - 2. Not one of them indorses the theory of organization which the Affirmative advocate.
 - 3. Not one of them finds the country to be in danger on account of the prevailing system.

AIR SERVICE, A SEPARATE DEPARTMENT OF NATIONAL DEFENSE

VANDERBILT UNIVERSITY

AFFIRMATIVE SPEECHES IN DEBATE AGAINST THE UNIVERSITY
OF KENTUCKY

FIRST AFFIRMATIVE

Edwin G. Crouch, Vanderbilt

MR. CHAIRMAN, LADIES AND GENTLEMEN: The airplane has become one of the most, if not the most important weapon of modern warfare. It has reached this degree of importance with greater rapidity than any other offensive device in the annals of the human race. At the outbreak of the World War the airplane was a very insignificant proposition. Aided by the vicissitudes of war its development was given such an impetus that its present advance since 1914 is twice as great as it would have been under ordinary conditions.

This rapid development of the airplane has precipitated the problem which now confronts the American people. Shall our air service be a separate department of national defense? Or shall the air service remain as it is, a branch of our two departments, the army and navy, each operating its own air force?

Since we of the Affirmative maintain that the air service of the United States should be a separate department of our national defense you are asked to consider with me the fundamental propositions which make the present system unsatisfactory and unequal to the task which the airplane has developed.

In spite of the fact that we have appropriated more money for aeronautics than any other nation of the world; that we have the greatest flyers on earth; that we stand first in the production of motors; that we have the greatest resources in men and materials to draw from, we do not occupy our rightful place in aeronautics among the nations of the world. By careful exami-

nation we can attribute this state of affairs to the following causes.

First, our present system is obsolete. All recent joint army and navy maneuvers have forcibly brought out that under modern conditions the fundamental phases of warfare are no longer limited to sea action and land action but there has developed the air action phase which is more powerful and more capable than any of the other inventions of warfare.

The airplane has written another chapter in the world's history not unlike the one our own history brings to remembrance. The construction of the ironclad Monitor in 1862 was bitterly opposed even by the naval officers but its advent in Hampton Roads and its engagement with the famous Merrimac wrote a new chapter in warfare. At sunrise one morning the wooden warships of the world were in hey-day of glory but at sunset of the same day they were but obsolete junk—a new era had dawned in naval warfare, and we can safely say with the advent of the airplane a new era has dawned in modern warfare and that we must rebuild our whole national defense doctrine on three fundamentals, air, land, and sea.

It is true that in either case the principles of warfare remain the same, just as they have remained unchanged for thousands of years but the methods of applying these principles are radically different.

For thousands of years the navies of the world were merely army auxiliaries and the army fought hard to keep the navy from becoming an independent branch, but the methods of applying the principles were so strikingly different it lost its fight. The world has moved on and new arms and new weapons have come on the scene. Just as there was a reason for the separation of the army and navy, there is the same good reason for separating the air service from both. If there is not a valid reason for establishing a separate air service then it is clear that we made a mistake when the navy separated from the army.

Second, the present system is not economical. More money has been appropriated and spent for aviation by the United States army and navy than has been spent by all other countries in the past ten years, these appropriations aggregating more than \$2,500,000,000. For the past five years the expenditures have averaged \$86,000,000 annually for aviation with negligible results,

these expenditures have been made by a number of government agencies, without any coordination, resulting in duplication of effort, waste in expenditures, and little practical development.

As the situation now stands the Department of Commerce, and the Army and Navy Departments each have their own research departments where one will do—they have three test and production plants where one will do—they have three corps of commanding officers where one will do—and lastly they have three distributing points for the people's money where one will do.

Great Britain, France, Italy, and Japan with much smaller expenditures have made great developments and have large air fleets, the French air force has about twenty-five hundred up-to-date planes, Great Britain about fifteen hundred and Italy and Japan five hundred each. These nations do not sit down contented with the fact that they have large squadrons of strictly up-to-date planes, but their research and development sections are working on new designs all the time both in planes and engines. They are not only prepared for the present, but ready for the future. The great development of commercial aviation in these countries has been an important factor in stabilizing the airplane industry, and it is the industry itself which will be the greatest factor in a war, as the aircraft factories must be ready to expand many fold and go on a greatly increased production from the first signs of an outbreak of war.

The development of aviation by foreign nations at a small expense as compared with ours, has been successful by reason of the fact it has been recognized as one of the most, if not the most, powerful weapon of offense and defense by all other countries instead of being treated as something of little consequence as is the case with the Army and Navy Departments of our country. Recognizing its capabilities and its great potentialities, other powers have concentrated their efforts in a department, eliminating waste, useless expenditures in countless duplications, and placing the administration in the hands of men who recognize the worth of aviation and are responsible for its development.

Third, the present system is unfair. It is unfair to the officers and men of the flying corps in both the navy and army service. The air service officers are practically denied representation on the general staff of the army and the cabinet of the

navy, the administration and operation plans being placed in the hands of officers who know nothing of the air service or its problem.

Those in the army air service in addition to being discriminated against in the matter of rank, due to the manipulations of higher officers are placed far down on the list in the grades in which they are commissioned. Fifty per cent of the casualties in the army are in the air service. They do not even get the gruesome benefit of the loss of their own fellow flyers but the greater portion of the promotions made by these casualties go to officers in other branches of the service. Due to these heavy losses and to the position of the air service officers on the promotion list, the situation for them is hopeless, so far as reaching the higher grades are concerned.

In some ways the air service in the navy is in a more hopeless condition than the army air service. In the navy as in army, higher grades are denied the flyers, and untrained and inexperienced officers are placed in command of the air men, which is not only a violation of military principles but detracts from the morale of the service. Such administration over men who gamble their lives everyday is almost inconceivable. In the navy the grades above commander are selective, the basis of the selection being the service in the line, and as the period an officer serves in the air service is out of line, the officers who have kept straight line duty get the preference.

Gentlemen, such is the reward under the present system to the highest type of American manhood, who risks his all to serve his country in the most hazardous branch of our services. In the name of reason and justice such conditions should not exist.

Lastly: What are the conditions as a result of the army and navy control of the air service?

Although we have spent more money on aviation than any of the other countries of the world we rank between third and fifth in air forces. The army and navy departments are still squabbling over the liberty engine which is now as far behind the European models as our guns were at the opening of the war in 1914. Most of the aviation equipment in the army and navy is junk and it is a crime for men to be compelled to use such equipment. The bulk of the casualties in the air service is due to the use of obsolete planes. The petty jealousies of the War

and Navy Departments have antagonized and stifled airplane industry by not dealing fairly with them. No wonder we do not occupy our rightful position in the air.

In conclusion, Honorable Judges, I have shown you that the system is obsolete, that it is uneconomical, that it is unfair and with the condition of our air service we must say that something must be done. The logical and fair business-like solution is a separate department for an air service.

SECOND AFFIRMATIVE

Marion M. Tillman, Vanderbilt

MR. CHAIRMAN, LADIES AND GENTLEMEN: My colleague has shown you that the present system is bad in that it is wasteful in money, time, materials and human life, and he has indicated to you that this is the result of an obsolete system. He has shown you that in spite of the fact that we have the best pilots in the world, probably the best-known materials for the construction of planes, that we have spent untold millions of our nation's resources, we have not obtained the necessary or desired results. He has pointed out that this obsolete system is the "negro in the woodpile." Now I want to tell you how we propose to remove this colored brother.

As my colleague has intimated, what we propose is a separate department of national defense for the air service. Many plans have been proposed by which this could be done. It is obviously impossible for me to discuss all of them. I shall present what seems to us the most practical plan to bring this about.

We propose that there shall be created a Secretary of National Defense with under-secretaries for the army, navy, and air forces. To this secretary of national defense will be entrusted the control of the entire national defense. He will formulate policies and coordinate the departments, while the under-secretaries will be experts in their particular fields. To the secretary of the air force will be entrusted the control, supply, and administration of all the various groups now under the Department of Army, Navy, Commerce, Agriculture, Post Office, and Marine Corps. The aviation group are as badly split up at present as the bears were at one time. Secretary Redfield is authority for the statement that at one time the polar bears were under the control of one cabinet officer, the black bears of another, and the grizzly bears of still a third. No business could survive such

administration as this. Why should we retain it in government business?

We propose that the Secretary of National Defense shall turn over to the army and navy what planes they may need for their particular purposes. We make no exaggerated claim that the day of army and fleets is past. We believe that these agencies will continue to improve and contribute to the national defense. What we do claim is that the airplane has demonstrated the fact that it deserves a place as a separate fighting unit. All we ask is that this infant which has outgrown swaddling clothes shall be given a place commensurate with the service which it is rendering and will render to the nation's defense. Isn't this a reasonable request?

The plan which we propose is not a new or radical one, nor are its advocates visionaries as our worthy opponents would have you believe. The founders of our government intended that there should be unity of national defense, for they made the President commander-in-chief. There was created a Secretary of War and we know from his title that it was he who was intended to have charge of the actual administration of the entire national defense. It was not until many years later when the development of naval warfare had created a new era in the conflict of nations with new problems of technique and administration which the old system was not prepared to handle that there was created a Department of the Navy to administer this branch of the nation's defense. Now there has come this new factor, the airplane, which has again outgrown the old system, and we are again confronted with the problem of replacing an obsolete system.

We do not say that we have a perfect plan. We do not claim that it will remedy all the defects of the present system. Probably that will not be done until the millennium comes, and we have no immediate access to the millennium. We do know that we have a practical plan which will remedy most of the defects of the present system.

A separate department of national defense will remedy the personnel situation for it will insure control by flying men. It will thus insure a sympathetic understanding of the problems involved in air warfare which are strikingly different from those of army and navy warfare. It will bring about a better system of promotion and pay. It will recognize the hazard of the em-

ployment and the hand that bears the burdens will receive the benefit.

Under this plan we would eliminate much of the red tape which now exists in the air service. We would consolidate and coordinate our efforts instead of having half a dozen agencies jealous of each other and duplicating each other's work. The investigating committee of the 68th Congress, after a study of the United States air services, found that one of the greatest evils of the present system is the duplication which exists in research and development. In many cases the army and navy are doing the same work, in their fields side by side.

A separate department of national defense for aviation will promote commercial aviation. The men who are actual flyers appreciate the value of commercial aviation in time of war as in time of peace. They realize that commercial planes can be converted into military planes, commercial flyers into military flyers. Visualizing this they would help commercial aviation by allowing planes to use their landing fields, mapping out airways, and training flyers in the school which they would establish. They would thus insure a reserve of trained and highly efficient flyers. And think of the value of airways interweaving the country as thickly as railways now do. This development will come but its coming will be retarded if aviation is entrusted to those who are not flyers and who do not visualize the mission of aviation.

Why do we say we know our plan will remedy most of the defects of the present system? As Patrick Henry said, "Our feet are guided by the lamp of experience." How have the economies of the business world been affected? Has it not been by cutting out duplication, eliminating overhead, and consolidating buying power? The trend of railway and business enterprises of all kinds for the last quarter of a century has been toward consolidation. Why? Because in that direction lies efficiency. Now if these methods are good for private business, why, "in the name of Jehovah and the Continental Congress," are they not good for government business?

The leading air nations of the world have found in a separate department a practical solution to the problem of an obsolete system. England has a separate air service which maps out air ways, builds radio control stations, maintains weather service bureaus, and subsidizes passenger and cargo planes. France, while she has left the fighting force with the army, has a separ-

ate department for research and development, and many prominent leaders, like Clemenceau, are agitating a separate air ministry. Italy is organized similarly to England. Sweden has a separate air service. Russia has a single department of national defense. The only American group to ever make a thorough study of the system of the world was the American Aviation Mission of 1919 composed of representatives from the army and navy, civil life, leaders in the aeronautical industry, and headed by the Assistant Secretary of War. This body, after a thorough study of the system of the world, found that something must be done if we were to reap any benefit from the enormous expenditures made during the World War, and recommended that all the air activities of the United States, civil, military, and commercial, should be placed under a single government agency to be created for that purpose co-equal in importance with the Departments of Army, Navy, and Commerce. This was the consensus of opinion among the authorities of the world. We maintain that instead of our being visionaries and radicals we are merely in harmony with the enlightened opinion of the world while our opponents have not yet realized that the war is over.

We have a wonderful opportunity. Bountifully blessed by nature with everything essential to a great air nation we might have visualized the dream of the poet of "Pilots of the purple twilight dropping down with costly bales," of air service as safe and natural as railway service now is. Ezra Meeker, as his oxen plodded across the continent in the Oregon rush did not foresee the Twentieth Century Limited. Can we be refusing to see the progress of the next three quarters of a century? Shall we be blinded to this by the dust kicked up by the doubting Thomases and Moss-backs of the army and navy? No phase of our nation's life illustrates more forcefully than the air service that "where there is no vision the people perish."

NEGATIVE SPEECHES IN DEBATE AGAINST THE UNIVERSITY
OF MISSISSIPPI

FIRST NEGATIVE

G. H. Golden, Vanderbilt

At the outset, we of the Negative wish it clearly understood that we are absolutely in favor of doing anything and everything

that will increase the effectiveness of our national defense, but, Ladies and Gentlemen, we also wish it clearly understood that we know that our existing defense organization is fundamentally sound and that we are convinced that the creation of a separate department of the air service will not increase the effectiveness of our national defense one jot or tittle.

We have been told that what we need is a united air service, and that our present air organization is all wrong. Year after year congressional committees have been investigating this question, always with the same result. Year after year the same testimony has been given, and year after year the idea has been found unsound. Let us look into the causes of the last congressional committee on this question which met last October. General Mitchell, a man whom I admire very much but with whom I do not agree in every particular, is possessed of an independent fortune and so is not reliant upon his profession for a livelihood. As a practical head of the United States' air forces he saw that there was room for improvement in the air service and that his men were becoming discontented due to what he terms as obsolete equipment and lack of proper advancement. He concluded that these circumstances were the results of the existing plan of national defense. Desirous of serving both his country and his brothers in the air service he decided to sacrifice his professional career in order that his country might obtain what he thought to be a better defense organization, and his brothers in the service the merited advancement. With this in mind he proceeded to issue certain statements which began an aircraft crusade of giant proportions, caused his court martial, and ended in another congressional investigating committee. Sensational statements and motion pictures regarding the results of bombing and flying tests have filled our newspapers and theaters with propaganda that is a clear perversion of the truth and cannot be supported by facts, reason, or logic and yet our worthy opponents seem to have fallen for it. Records established by planes under favorable peace conditions have been reported in such a manner as to create false impressions as to their war capabilities. We are told that there are airships which can fly two thousand miles at the rate of more than one hundred miles per hour, and carry a four thousand pound bomb. The misrepresentation in this statement is this: Although the plane may be able to fly two thousand miles without bombs or get off

the ground and fly possibly an hour with a four thousand pound bomb, it cannot as one might be led to believe, fly two thousand miles while carrying a four thousand pound bomb. It has been pictured that great hordes of heavy bombing planes can fly across the ocean and attack our cities. A great noise has been made about a certain bombing plane that can fly from Europe to the United States with enormously heavy bombs attached to it. Everybody has been talking about this plane but no one has ever seen it. It has not materialized. There is a plane in this country which, I believe, could fly across the Atlantic and possibly drop some firecrackers on Paris, but it could not carry any heavy bombs, nor could it return to this country without refueling. My Friends, with these facts regarding the capabilities of present day aircraft in mind and realizing that from our geographical situation we are separated from every other first class nation by almost three thousand miles of ocean which is an effective barrier to aircraft at their present stage of development, we must conclude, just as the congressional investigating committees have already concluded, that it is absurd to talk of hostile air attacks unless the planes are transported near our shores by naval carriers in which event we would have to depend upon our navy to destroy the carriers.

The forces of a nation which are necessary to the effective conduct of war may be divided into three general classes: (1) The fighting forces: the army and navy, (2) The maintaining forces; agriculture, industry, finance, and transportation, and (3) The sustaining forces: honor, morale, and the will to win. Obviously it is only by the destruction of these three forces that one nation can conquer another. Furthermore, since most people, unlike our worthy opponents, do not live in the air but on land, it is evident that operations of war to be decisive must be such as to affect the situation on land. Operations in the air then are effective only so far as their results affect the situation of the enemy on land. Such being the facts, let us see just how important the air service really is in a war. Can air forces destroy military power? They cannot! In the World War Germany constructed more than forty-five thousand planes, France and her Allies more than one hundred and ninety thousand. It was clearly demonstrated that in the destruction of military power aircraft were valuable only as scouts and as an aid to the control of large caliber gun fire. So then we must conclude that

aircraft can destroy military power only so far as it serves as the eyes of the army and navy and just as the eyes are component parts of the human body so should the eyes of our fighting forces, the aircraft, be component parts of our army and navy, and just as it is illogical to take away a man's sight and expect him to be physically sound and capable so is it illogical to take away the army's and navy's sight and expect them to be sound military organizations. It is just as logical to cut out the eyes of the soldiers and organize them into a separate eye department as it is to cut out the sight organs, the aircraft, of the army and navy and organize them into a separate air department. The army and navy are the only ones that can use aircraft effectively in war and aircraft are essential to successful military and naval operations; therefore the army and navy should each control its own air service and not be hindered by the organization of a separate department of aviation.

Can air forces conquer enemy territory? They cannot. Aircraft have power to destroy to a limited extent material and personnel, but such activities do not conquer territory. Territory cannot be conquered by forces that hit and run. This has been demonstrated in Irak, where the British air force which is in charge of the operations has found it necessary to use infantry to control the occupied territory. The operations of the French against the Riffians have also demonstrated this fact. So then just as the air service is dependent upon the army and navy for its value in destroying military power we now find that aircraft are also dependent on the army to be of value in conquering territory.

Can air forces break the enemy's will to win? The advocates of a separate air service claim that a sufficient superiority in aircraft will insure the destruction of enemy material and personnel, including industrial, financial, and administrative establishment; and by such operations will soon break the enemy's will to win. In order to accomplish these results air forces will use bombs and gas indiscriminately. Germany decided that all was fair in love or war and it was because of the belief that Germany had accepted the theory of ruthlessness that the world rose up in arms against her. And still, Ladies and Gentlemen, in the face of the fate of the German Empire, we find in our air service some of the apostles of ruthlessness. It is to be hoped that they do not reflect the view of the country in their attitude.

The objective in any warfare must, and always will be enemy territory. The air does not constitute a new objective. It constitutes merely a new path for reaching the old objective. Aviation is a new form of transportation, but it has not changed the fundamental, underlying principles of warfare, which have remained the same from time immemorial in spite of changes in the vehicles with which it is carried on. We have proved that it can neither destroy military power nor conquer territory except as it is used as a subordinate and dependent branch of the army and navy and it is to be hoped that civilization and Christianity will prevent its use in a ruthless manner. Therefore, Ladies and Gentlemen, we declare that at the present stage of aeronautic development the fundamental principles of modern warfare prove that the air service has not yet become of sufficient value in winning a war to warrant its separation from the army and navy but that those same fundamental principles do demand that the air service be subordinate to the army and navy if we are to have a sound and effective organization of national defense.

The fundamental strategy of our national defense is based on the maintenance of a very small standing army and of a navy commensurate in size with our dignity. Our army, on this hypothesis, is not in a state of immediate readiness for war. Our navy, on the contrary, must be in this state of readiness. Our whole system is based on the hypothesis that behind the strong arm of the navy we can mobilize our army and industrial resources after war becomes imminent. Naval aviation is a component part of the fleet and must be in the same state of readiness as the rest of the fleet. Military aviation should be of that size and degree of readiness which corresponds with the size and readiness of the army. The congressional investigation of last October revealed this to be the case.

Like Patrick Henry we must guide our footsteps by the light of the past. From the time of George Washington this country has in time of national emergency placed its reliance on the army and the navy for its safety and preservation. The army and navy have proved worthy of this trust and undoubtedly will prove worthy in the future. History shows that in every conflict in which we have been engaged we have used the latest weapons and most modern developments in the implements of war. From this the argument may be made that we not only are doing so

but will continue to do so. We are a peaceable people and dislike war. But when aroused we are not a defensive nation waiting for the war to be brought to us, but we will carry out a vigorous and aggressive war, if we are forced to it. Upon these basic principles rests the organization of our national defense. Organization is nothing but a plan of administration. If the administration of the plan is not good, the trouble lies with the administrators, and not with the plan. Some of the most brilliantly glorious pages of history, the freedom of Cuba, the shattered Hindenburg line, and the organization of the German republic bear mute and powerful witness to the soundness of the plan and to the fact that it can be well administered.

Ladies and Gentlemen, whereas the United States is absolutely safe from hostile air attacks at the present stage of aircraft development, whereas the value of aircraft themselves in winning a war does not warrant the establishment of a separate department, whereas the fundamental principles of modern warfare demand the subordination of the air service to the army and navy, and whereas our existing air force organization is strictly in keeping with our fundamental strategy of national defense, we of the Negative declare that our existing organization of national defense with the aircraft units subordinate to the army and navy is absolutely sound in principle and operation and should not be changed.

SECOND NEGATIVE

Hubert T. Holman, Vanderbilt

LADIES AND GENTLEMEN: My colleague has shown in his presentation that the American air service, as an integral part of our national defense, is functioning satisfactorily under the present system of organization. He has shown how the air service, as a comparatively new and untried experiment of warfare, has in a very few years developed to a position of great relative importance as a branch of our national defense. My colleague has gone further and established that the fundamental principles of modern warfare demand the subordination of the air service to the army and navy, and has proved to you that the existing organization of our air force is strictly in keeping with our fundamental strategy of national defense.

As second speaker for the Negative it is my purpose to show the harmful results that would come from the setting up of an independent air service by this government. In proving that the program indorsed by the gentlemen of the Affirmative would work dire consequences to our system of national defense, as well as being a likely source of danger to this country, I shall establish three propositions:

First, that unification of the air forces into an independent department would be strategically an unsound policy.

Second, that such a policy would be unsound economically.

Third, that it would have a tendency to make our government more bureaucratic.

Let us consider the first contention, that unification of the air forces into an independent department would be an unsound policy strategically. In the first place, we of the Negative have shown that the very fundamental basis of usefulness of the air forces to this country is as an auxiliary to the army and navy. To the army they are valuable for field observation and for scouting, for preceding advances and for covering retreats. The army serves as their base of operations, where the air fleets can land and come and go to obtain and assure the means of their own maintenance and existence. It is exactly the same way with the navy. Just as it is impossible for the air service to serve its purpose of usefulness without its being supported and braced by either the army or navy, so it is impossible for the latter to serve the object of its existence without its being adequately supported and supplemented by fleets of air craft. This is essentially the practical field of usefulness of the air service—as auxiliary to the army and navy. The air service of this country does not occupy a position of importance oblivious to and independent of the army and navy branches of the nation's organized defense, as the gentlemen of the Affirmative have been trying to make you believe. Nearly every high ranking official in our military and naval services has repeatedly testified and declared that the air service as a fighting unit has no appreciable value in itself, but only insofar as it supplements the army and naval branches of our defense system. Whom else should we allow to determine the defense organization of this great nation? Shall we let a few loose thinking and inexperienced radicals aroused by sensational newspaper publicity and flights of imagination stampede

us into a course which is almost completely denounced by military experts everywhere?—men who are actually familiar with the fundamental problems and needs of our time-tried system. A majority of all the committees appointed to investigate for determining the needs for a unified and separate air service have generally condemned such a policy. The most recent of these was the President's Aircraft Board, which has only lately brought in a report which amounted to an unqualified rejection. Ladies and Gentlemen, we must go to those who are familiar with our whole problems of defense as based on the fundamental policies and established needs of warfare of this country. Let us not seek direction from those whose knowledge and interest is limited to one department and that as my colleague has shown a necessarily subordinate one.

For this country to adopt the unified air service as advocated by our worthy opponents would do incalculable harm. A justification could only be based on the already discredited assumption that the air service is dominant over or to say the least independent of the other branches. This assumption with its strong appeal to the popular fancy is based on the fallacious idea as my colleague has shown of an air fleet being able to capture or resist attacks unaided and unsupported by help from land or sea.

The adoption of the separate and independent air service would threaten and woefully impair our whole organization of defense. It would take from the army and navy the power to control the operations of one of their most vitally useful agencies. The very basic objective of the air forces has ever been to supplement and make more useful those two major divisions of the service. The army organization is composed as set out in the National Defense Act of 1920 of seven distinct and separate departments—the infantry, cavalry, field artillery, coast artillery, engineers, signal corps, and air service—all of which are indispensable parts of the organized whole. It would be just as absurd to take the coast artillery or the engineers from under the control of the army and organize either one of those departments into a separate branch of the service as it would be to do so with the air department.

Nothing can result but harm from the depriving of our service as an organic whole of control over its essentially coordinating elements. Where lies the logical justification in business,

religion, or the strategy of warfare in stripping an organization of essentially dependent parts and in setting them off to themselves independent and separate of the whole, especially when the whole is the only instrument through which the usefulness of the parts can materialize? Can a fountain rise higher than its source? Such a course would tend to disrupt and decentralize the control over our entire machinery of warfare, which of all organizations is the one where central responsibility is most needed. Naval aviators, no longer responsible to the navy with which they are now working in conjunction, would naturally lose sight of the problems and demands of that organization whose authority they no longer have to respect. The same would be true with regard to the aviators who are now a component part of the army. In other words, that which would, as the gentlemen of the Affirmative have told us, purport to unify and solidify the air service, would disrupt and disorganize the entire military defense system of this country. No plan so revolutionary in scope has yet been devised which contemplates so radical a departure from the time-proven successful administration of the American national defense.

Our next step in showing you how dangerous would be the consequences of the adoption of the independent air service, will be by way of establishing that such a policy would be unsound economically. In the first place the new plan would be more expensive because there would be three major divisions of defense instead of two. Everyone knows that the creation and addition of new departments alone gives rise to increasing expenditures, and in building up a new department of the air it is easy to see that with all its ramifications of overhead we shall greatly add to the cost of military establishment. In the organization of a separate department we shall find it harder to draw the line. This separate department of the air will want cognizance of that portion of the military establishment which handles aviation. In its endeavor to eliminate a small amount of duplication in matters aeronautic conducted by the army and navy, the new department of air service will be guilty of duplication itself in its relation to each of the two branches for it will have to usurp those military or naval functions, as the case may be, that are necessary to conduct the aeronautic department. In short the department of air would have to assume functions

peculiar to the army and navy, yet which are inseparable from the operation of the air forces. Hence instead of mere duplication existing, the national defense of the United States would be the victim of triplication of services and functions which under its present organization are not even duplicated. This too at the time when the cry is ever going up from citizens and tax payers all over the country in behalf of greater economy in government.

But, Ladies and Gentlemen, dangerous as would be the pursuance of the course advocated by the gentlemen of the Affirmative by reason of its strategic unsoundness, undesirable and offensive as would be the effect of the creation of an independent department of air because of unsoundness of such a policy economically, there lies yet another reason why we as American citizens should oppose the advocated system with unqualified rejection and vigorous condemnation. For such an undertaking would be merely another step in the modern tendency and direction toward governmental bureaucracy. When that memorable document of constitutionalism was framed, everything possible was done to limit the functions of Federal government, so that the maximum of functions might be reserved to the rights of the states. Yet only during the past few years ideas have been rampant and more increasingly expressed as desirous of ever enlarging the scope of Federal activities. Bureau after bureau, commission after commission, tribunal after tribunal have been created and established with the resulting over organization, over lapping, and harmful inefficiency. What our objective should be is to lessen bureaucratic tendencies not increase them. The formation of a separate and unified air service, so useless, so disruptive, so dangerous as undermining and confusing the responsibility and authority over our national safeguards, is un-American in that it is another link in the ever lengthening chain of happenings which are substituting for the American theory of limited sovereignty as confined to the needs of those governed, the blind subjection to bureaucratic control inefficient and demoralizing. The country rightfully demands that we put a check on the never-ceasing demand for overorganization, with its perilous tendency to break down the whole plan of our government.

In conclusion, let me say, Ladies and Gentlemen, that the Negative has proved: in the first place, that the American air service is and can function best under the present system of or-

ganization, because the fundamental principles of warfare demand its subordination to the army and navy, and further because the existing organization of our air force is strictly in keeping with our fundamental strategy of national defense. In the second place the Negative has established that the proposed plan for an independent air service should not be adopted, first because it is strategically unsound, second, because it is economically unsound, and third because it would tend to make our government more bureaucratic.

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CHAPTER VIII

EDUCATION, THE CURSE OF THE AGE

PRINCETON UNIVERSITY *versus* YALE UNIVERSITY

RESOLVED: *That education is the curse of the age.*

This is a stenographic report of a debate between an Affirmative team representing Princeton University, and a Negative team for Yale, held at Sprague Hall, Yale University, April 10, 1926. This question was also debated this spring, by other teams representing the "old three," Yale, Harvard and Princeton. The popularity of a subject of this character was evident, as it has been on similar occasions, by the crowded house which listened to the debate. The vote of the audience, taken at the close of the debate, was for the Negative, as was also the decision of the three judges, voting independently, which was unanimous. The report of the debate was secured thru the courtesy of Mr. John G. Becker, one of the members of the Yale team, and vice-president of the Eastern Intercollegiate Debate League.

EDUCATION, THE CURSE OF THE AGE

PRINCETON UNIVERSITY

versus

YALE UNIVERSITY

PRESIDING OFFICER

Robert Hutchins, Secretary, Yale University

LADIES AND GENTLEMEN: In the absence of programs I may inform you that the subject of this debate is "Resolved, that education is the curse of the age." The Affirmative is upheld by Princeton University and the Negative by Yale.

To ask one who gets his living from the university to preside over a debate where it is strongly intimated that education is the curse of the age is hard to comprehend. It seemed to border on the presumptuous on my part that I should preside here. But my friends, the Affirmative, assured me that none of their remarks would in any way reflect on Yale or its faculty, because they did not regard Yale as an educational institution.

In this tactful way the gentlemen of the Affirmative have squared themselves with the host of the evening, but how will they square themselves with the honorable university of New Jersey, which we welcome in their presence tonight.

The first shot on education will be fired by Edward Dumbauld, class of 1926, Princeton.

FIRST AFFIRMATIVE

Edward Dumbauld, Princeton

LADIES AND GENTLEMEN: I am very sure that everyone in Yale recalls the last occasion on which it was our privilege to be here. I assure you that it is as great a pleasure to be here this evening as it was on that pleasant and memorable afternoon of last fall.

Now Yale is the center of all things collegiate especially collegiate clothing, and since we have used that word collegiate, it instantly brings to our minds not necessarily a place adapted to scholarship, but a very hilarious group of young people, whose chief interests in life are sex, liquor, and athletics. Speaking of athletics we take no unction to ourselves on any lesser scale. It was Princeton that won the football championship this year, as I am sure you are all aware.

Many universities are said to be mere factories for the turning out of Ph.D.'s, a product calculated to make the desert of this arid land blossom like the rose. But you know what happens when a factory is placed in a locality. Human values are crushed by economic regimentation. This is specially true out in Pennsylvania, where I came from. There our chief interest is the coal business, and there too are to be found the shack motive and the packing-box motive characteristic of American architecture. In these places the smoke destroys the fruitage and flowering of life. Similarly in the tedious times and research treated in Ph.D. theses I should say that the blossom is removed from scholarship. Indeed the only blossoms that thrive in such an atmosphere are rum blossoms.

In case however our reasoning does not convince you tonight, I am sure that our example will. Just look at us. We represent education. It would not be fair for us to include our opponents as examples, not even the scholarly Mr. Davenport. Now we may go back and say that education is the curse not only of this age but of every age since in the Garden of Eden our primitive parents partook of the fruit of the tree of knowledge, or since the time that Pandora opened the lid of the box from which sprang forth all of the evils that have harassed mankind. From that day to this we might rely on the biblical statement that "he that increaseth learning increaseth sorrow." A little illustration of this is found in the case of the man whose wife kept him awake by night with questioning him about burglars every time she heard the slightest noise. A doctor who was a friend of this man suggested that burglars were silent. Thereafter the man's wife kept him awake thinking about burglars every time it was quiet. And that is how education increases knowledge and sorrow. Think how much happier the theologians would be if they knew nothing about evolution. I think they don't know much about anything anyhow but think how happy they would be if

they knew not even that. And then there are New England folk who are descendants of the Mayflower or whatever it was that brought them over. Then there are the Daughters of the American Revolution and various institutions of that nature. A lady who had successfully been admitted to all of these organizations said, "Why didn't these evolutionists keep quiet? I hear there is a Pre-Adamite Ancestors Association being formed and now I shall have to have my ancestry traced back farther than that."

Education makes people strive to do things for which they are totally unfit. For an instance of this we have a young country lad who conceived the idea that he was called by God to preach Christianity because he had seen in the sun one day the letters G P C, which he interpreted "go preach Christianity." But he found later that the proper interpretation was "go plow corn." There was another man in Kentucky, Mr. Davenport's home state, who brought his boy to school, saying to the teacher, "This boy is arter learnin'. What's the bill o' fare?" The schoolmaster replied, "We have algebra, arithmetic, geometry, trigonometry." "That's enough. Load him up with that there trig-gernomtry, he's the only poor shot in the family."

Now education, as knowledge, is power, we have been told, but power is not necessarily a blessing, in fact power is often a curse. Look what has happened with chemical knowledge as a result of scientific investigation by which we have achieved the ability to turn a factory into a source of poisonous gas to destroy mankind. Now-a-days murder has become a fine art and we have all sorts of scientific devices which enable nations to kill off each other. We have a war policy which has its base in scientific knowledge. Power can be a curse. What we need is responsibility, a social control.

Civilization has been defined to be the art of living together. International law, you know, is based on the common consent of civilized countries. We decided in our international law class down at Princeton that civilization was really determined by the arts of plumbing and music. Civilization, living together, requires respect for personality. We need people who are interested in people, solicitous of their fellow men, in fact we would say that religion and not education may be the salvation of the age.

In America since the days of Thomas Jefferson we have believed that education is the panacea of all ills. Whenever the consumers are not buying enough shoes or tooth-paste we have some education for the consumer. We have education whenever a drive for funds is in prospect. Education the panacea, we say, forgetting that education like any institution may develop into a curse.

The church, we all admit, is based on a very excellent idea. But the Inquisition cursed the ages in which it was practiced. Any institution that regards itself as the end not as the means for human happiness, the existence of any thing, which holds itself above the necessity of justifying itself through service is a curse. We must always remember that man was not made for the Sabbath but that the Sabbath was made for man. The idea has been put into poetry by our great masters. Goethe writes the lines,

“Höchstes Glück der Erdenkinder
Bei nur die Personlichkeit.”

That is to say the happiness of children of the earth is personality. This quality of human personality is being stunted by education, the factory system of education.

The phrase Ph.D. factories well describes the curse of education. It is not intellectual industrialism that we need, but reverence for individual personality serving society in appropriate activities commensurate with capacities. We must let people's energy and talents express themselves in a task adequate to arouse all their creative power. Mechanical experience, worldliness, knowledge of good and evil, will not suffice. This is shown in the story of Faust familiar to you all. I ask you to go over in your minds various events that happened when Faust went about seeking life after he had been educated in a university and finally found happiness only in activities for the benefit of his fellow men.

FIRST NEGATIVE

John G. Becker, Yale

MR. CHAIRMAN: I was very much interested to hear that my learned friend, the first speaker from Princeton was a fellow Pennsylvanian, but I was sorry to hear him castigate that commonwealth as a deplorable region, where human values are

crushed by economic regimentation. I rise to the defense of my state. Let me point out to you that Mr. Dumbauld is himself a product of this environment. He has quoted some German literature to us, but not all of it, and what he has omitted is most significant. Let me ask you to look at Mr. Dumbauld, as he has challenged you to do, while I ask him what reply he has to make to that query of Heine's "Du bist wie eine Blume."

Now Mr. Dumbauld has devoted much of his address to a dissertation on personality. He is surely filled with his subject, but it is not the one we are debating tonight. The topic of the debate is education. However seductive Mr. Dumbauld may make an excursion into the realm of religion, ethics, or the restraining civilization of our day, he shall not get us to evade the issue.

Premier Lloyd George was campaigning in Ireland and expressed himself in this fashion: "I am for home-rule for England, home-rule for Wales, home-rule for Ireland." "Yes, and home-rule for hell too," said a voice in the crowd. "Right," said Lloyd George, "every man for his own country." Tonight we can only conclude that they, our opponents, are speaking in their own behalf, when they come forward, as the representatives of Princeton, to declare that education is a curse. This gives us great concern. We view with alarm the effect that their presentation may have upon the mass of people, who have regarded Princeton as the very marrow in the bone of education. In the words of Chaucer, "if golde rust, what shall iron do?"

What are we to think of these gentlemen of Princeton, having educational benefits given only to the chosen few, now telling us that there are a curse. We are fearful that great numbers of people hearing them speak with the authority of their great institution behind them, will give up even those small efforts they are now making toward education. We do not wonder that this argument, that education is the curse of the age, should be brought forward, but that it should be sponsored by Princeton.

One of our acquaintances who found his occupation by reason of a recent amendment to the Constitution, went to the tradesmen's door of a client. The good lady of the house met him with the query, "Well John, bootlegging must be a pretty good business?" "Aw, lady," answered John, "it ain't the coin that counts with me. It's the people youse meets." Indeed tonight we

wrestle not against flesh and blood, but against Princetonians, powers, the rulers of the darkness of this world, against educational wickedness in high places. We warn you therefore not to be deceived by the mere weight of authority rather than by sound evidence.

It was not so long ago that we had to face the abilities of our own third speaker arrayed on the same side of this question as our tonight's opponents. This was indeed a terrible predicament for us, because such confidence had Mr. Davenport inspired in folk of lesser occupation that the noted charwoman, "God bless you" Mary, always attested the truth of any statement by the phrase, "Mr. Davenport, himself, hath said it." Luckily Mr. Davenport has been converted from his heresy. He has seen the true light, having hit the sawdust trail in Boston some nights ago after a debate with Harvard on this topic. And it is our hope tonight that our zeal may have similar success in converting these lost Princetonians.

Nevertheless, for the time being we must defend ourselves against their words having behind them the prestige of their learning and erudition. I am sure that in this connection, the familiar words of Cicero come to the mind of everyone.

"Qua re conservate, iudices, hominem pudore eo, quem amicorum videtis comprobari cum dignitate tum etiam vetustate, ingenio tantum quantum id convenit, existimari, quod summorum hominum ingenii expeditum esse videatis—causa vero eius modi quae beneficio legis, auctoritate municipi, testimonio Luculli, tabulis Metelli, comprobetur." Ladies and Gentlemen, it is as if this proposition were defended by the testimony of Mr. Dum-bauld and the tabulations of Princeton. Now since we face such great authority behind the defense, lest you be swayed by that authority rather than by the soundness of argument, let us carefully examine the real questions.

We could understand their coming as *laudatores temporis acti*, praising the time of their grandfathers, the time of plain living and high thinking. But these come advocating no thinking at all. If they were to tell us that they were supporting the doctrine of the "noble savage" as a proper society, we might be able to bear with them, to understand what they were talking about, because that doctrine held great vogue in the last part of the eighteenth century. But even then, we should like to call to

their attention, should they espouse the cause of the noble red-man in later speeches, the remarks of Samuel Johnson, whom J. M. Barrie calls "our glorious Dr. Johnson." Boswell came to him one day and said that a man had been marooned in a deep forest, who consoled himself with this philosophy: "Here am I midst the rude splendor of nature. There on the ground is my gun. It will procure me food whenever I want it. With this Indian woman by my side, who could be more happy?"

Then came the reply of Dr. Johnson, "Do not allow yourself to be misled by such folly. A bull might say, 'here am I with this grass and this cow, What more is needed for entire felicity?'" And his final pronouncement, "Nothing can be more false than the supposed happiness of savage peoples."

Our Princeton friends have not so far advanced this doctrine. They have declaimed that education is the curse of the age. Says Horace, "The mountains groaned and brought forth a mouse." Princeton vociferates and brings forth the claim that education is the bane of the age. In order to prove the truth of their statement, I should like to submit that they will have to show, first, that education is in itself an evil and, second, that education is widespread enough to be a real influence in our time.

What do they mean by education? Admittedly four years in Princeton. For the sake of argument let us grant their first contention. Education is the curse of the age with the result that you see on the platform, Exhibit A. But are we even now to believe their logical second inference. Is Princeton to depart from her time-honored policy of choosing only a few to dwell among the elect, and is she about to open her arms and compel everybody to be innoculated with the virus, far as the curse is found. This seems incredible, physically impossible, and morally reprehensible.

When they set out to uphold the earlier contention that education was bad of itself, they quoted scriptural authority, "that in much wisdom is much grief and he that increaseth knowledge increaseth sorrow."

To our minds, this appears a palpable misuse of Holy Writ and wholly disproved by observation of the facts. To be frank, Ladies and Gentlemen, some two years ago, when we met undergraduates in the land of Mercer, New Jersey, they did seem poignantly distressed, but as that was just after a football game, their grief was financial not intellectual at the root.

Leaving the question of the pain or joy-giving characteristics of education and reverting to their second plea, we come upon the claim that education enjoys a universality second only to Ivory Soap or Mr. Wrigley's specific for jawbone culture. Education, that thins a man's cheeks, that takes the color from his eyes, this great lust for learning, this unaccountable desire to know and understand, this, they say, is the menace that haunts the American home, that runs wantonly through the pleasing villages, that ruins our constitutional pursuit of happiness. Now, Ladies and Gentlemen, you know this can't be so, for very plainly, there ain't no such animal roaming in America.

We are sure that our opponents have not come here with the intent of proving education to be a curse, by showing, first that it is evil *per se*, and second, that it is widespread enough to vitally influence everybody. That, they would have to do to win the debate. But far from doing it, I am sure that they have rather come to uphold that true verse carved over the grave of John Gay,

"Life's a jest, and all things show it.
I thought so once and now I know it."

SECOND AFFIRMATIVE

King G. Pearson, Princeton

LADIES AND GENTLEMEN: At the start I can disown any intimate association with factories which Mr. Becker implied might be the reason for our proneness to work up the analogy between factories and the school system. Instead I come from the great open spaces where red blooded he-men abound, from the great state of Kansas.

Until Mr. Davenport went to Harvard, he believed with us that education was the curse of the age. While there he underwent a conversion for which the Harvard team was apparently responsible. Knowing Harvard as we do, we cannot appraise very highly a conversion which issues from its cloisters. Up till tonight we thought this debate was to be conducted in English. Mr. Becker's amazing assimilation of the classics has, however, almost established the criterion of Latin for the language of the debate. Here I cannot compete with him and must revert to my native tongue. There may be method, however, in Mr. Becker's

employment of Latin. He may wish to conceal his arguments thereby from both audience and the Affirmative and stride his way unchallenged.

In the United States at the present time, education consists in jamming every year twenty-two million American boys and girls through a gigantic mill. The city is "mass production." The individual is lost in the jam. Everybody receives the same treatment. The genius and the moron share the same instruction. So it is that the public schools and the colleges of this country are factory imitations. While the school bell is ringing out the commencement of another daily grind, the factory whistle in Uniontown calls the laborers to their toil. From nine to ten "hunkies" feed furnaces in smelting works, and, during the same hours, boys and girls rack their brains for the reason why parallel lines never meet. Between twelve and one factory workers gulp down their sandwiches and coffee and at the same scheduled time school children devour their lunch. Throughout the day officious foremen yell at the men under them in the factories while, in the schools, old maids, male and female, rasp out corrections, admonitions, and scoldings at the defenseless children in front of them.

Just as a factory prides itself on the number of products and by-products it manufactures, so do teachers exult in the number of subjects they teach. They try to emulate the fifty-seven varieties of Heinz. They teach you to knit, they teach you to sit; they teach you to look, they teach you to cook; they teach you to yell, they teach you to spell. Old maids teach home-making and business failures teach money-making.

In factory offices white-collared clerks meticulously make out a "Who's Who" of employees, record expenditures and income, production and costs. In the schools teachers measure their pupils, their intelligence and their achievements. From these measurements the testers deduce predictive figures so that the pupil can now go to these calculating machines, and find out just exactly what he will achieve in high school and college. He can get his number and his rating and his official standard. And so teachers measure their pupils and other testers come along and measure the teachers. This measuring madness is even being extended from the schools outward. When it reaches its ultimate consequences, we will be confronted with a situation like

the following: A minister gives his report to his trustees. They want figures on his work. They intimate that no position drawing \$2000 a year should escape giving an account of itself. "How many souls have you saved during the past year?" We can imagine the minister very timidly replying, "That's very difficult to tell, but I should think about . . ." "Think, my dear sir, we want no guess work here; we want figures." But enough of this. Are we machines? Are we automatons? Are we rectangularized with straight lines and measurable angles like dead things? Living organisms are never mathematical. And if analogies can be applied at all, the life supposed to be instilled in our schools is likely to be choked to death with sheer precision.

Yet the same principles operate in our public schools today which govern the factories the country over. Mass production in the factories. Compulsory universal education in the schools. Uniform treatment of raw materials in the factories. Uniform treatment of children in the schools. Steam roller methods and glorified bookkeeping in both. One difference, however, confronts us. In the factory you deal with dead, inert, inanimate things. In the schools you deal with live, active, spirited human beings. Yet the same methods are applied to both.

The effects of educational factories on their products are evident in the personality of the average American today. We have defined education as that which contributes to the formation of personality. In this process the most important factor is the schooling of children. It is in the schoolroom that children spend the period of their lives when their habits and their states of mind are in a plastic condition. Their sense perceptions sink deep and leave lasting marks on their personality. The schools therefore are responsible to the highest degree for the personality of the average American. It can be divided into three aspects: intellectual, moral, and emotional. I shall point out the evil effects on the intellectual side and my colleague will conclude with the evil effects on the moral and the emotional side.

An important index of the intellectual taste of the average American is the newspaper and the magazine. Popular taste has sunk so low that the era of the pornographic press has been ushered in. Among the most popular newspapers at the present time are the tabloid journals and their grotesque displays of chunks of feminine beef. The yellow sheet and the scandal

sheet have smeared their filth the country over. Their reporters ferret the land for incidents with sufficient background for morbid scandal. Once these are written up they are screeched from the house tops by half-page headlines. Worthy of a rank with the yellow journals are the confessions magazines. Their theme is old, yet ever new. In every issue can be found the sordid details concerning the manner in which the poor working girl has been hounded by the tired business man. Here are the titles of some of the stories appearing in a current copy of one of these magazines: "*Her narrow escape, or a warning to girls.*" "*The unwanted woman, or did this girl love too well?*" "*The only fall or before you take the fatal drop.*" "*Experience the teacher, or marry in haste.*"

American advertising has reached almost the same depths as American journalism. A correspondence school advertises it will prepare you for the bar by studies at home. "Kiss Proof," apparently a form of lipstick, attracts its buyers in the following manner. "I met a hundred girls, but never one with your charm. Tell me your secret, darling." "Kiss proof lips. That's the secret. Do you really like the effect of it?" "I am infatuated by you. Did you say the name was kiss proof?" "Yes," she answered dreamily, "kiss proof." "Let's see if it really is," he says, and then tries. A school which trains you by correspondence for the development of skill in playing the piano advances a hypothetical case of its success. People say, "It's so strange to hear her play. We know she never took a lesson from a teacher." No wonder her playing sounded strange.

As in journalism, so in the movies. The producers have too often degraded their art to the level of popular taste. A movie nowadays must contain emotional dynamite. Sheiks for the flapper, mawkish sentiment for the old maids, and sex thrills for all. The movies arouse their patrons, in a state of intellectual and physical coma, to the lurid excitement of morbid thrills. At the movies the incentives for thought are withdrawn and the way is cleared for mental torpor. The comfortable seats have their inevitable drowsy effects. The movie fan needs little comprehension to see the action and to read the subtitles. He sees only one side of life, for the thought provoking tragic ending is denied him. Befogged by the waves of bourgeois sentimentalism, the movie fan soon degenerates into his inevitable state, the movie mad moron.

The stage tends to follow the movies in its subjection to popular taste. Instead of depicting all of life, it is inclined to limit its wares to the most saleable side of life, the lure of sex. *Desire under the Elms* ran for months in New York. *Rain* had a like success. *A Lady's Virtue*, *Easy Virtue*, and *The Virgin* are leading cards on the New York stage at the present time. An offshoot of the stage—and a very successful one—has been the musical revue. Year by year this has become more of a glorified exposure of the American girl. Beauty and art have been degraded for the sake of the pocketbook of the producer. The chorus girl has become a national figure—and a very scanty one.

Politics have largely ceased to be the arena of argument and reason and have given way to the party slogan. A short, concise statement, easy to remember, will often be the crux of the campaign, whether it is easy to remember or not. Since the average American is too lazy to think the issues of the campaign out, the politicians supply him with a slogan as a guide and standard, a limping prop for an unsteady judgment. In 1916 it was "Peace and prosperity, he kept us out of war." Woodrow Wilson was re-elected. In 1924 it was "Keep cool with Coolidge." He too secured a second term. "A walk over with Walker" was an essential factor in the election of Jimmy Walker as mayor of New York city. The idolized and misunderstood phrase, "entangling alliances," seems to be the greatest bar to our adhesion to the League of Nations. A crowd of laborers can still be harangued to the meaningless tunes of "the full dinner pail" and "the honest dollar." Hence the power of the slogan has partially eclipsed intelligent insight into public affairs. At the present time there is an amazing indifference in this country toward politics. At the primary elections, one-tenth of the qualified voters may do their duty as citizens. At the last presidential election, only one-half of the qualified voters cast their ballots for President. In fact the average American has come to know more about the private life of public men than he knows about their public life.

The responsibility for the woeful intellectual collapse of the personality of the average American must fall upon the public schools and to a lesser extent upon the colleges. They have been the most important factors in the shaping of personality and

therefore must shoulder the blame for most of the intellectual tastes of their products. Under educational factories, with bureaucrats overhead and children underfoot, steam roller processes have flattened the average American into a state of morbid mediocrity.

Wholesale factory education has therefore signally failed and constitutes the greatest curse of the present age. We shall reap the disastrous consequences in increasing proportions as the years roll by. Simplicity, directness, depth, and intellect will become lost elements in American life. We will grow more and more shallow and superficial. In order to avoid the state toward which we are heading, the educational factories must go. A method must be devised whereby the individual will receive inspirational instruction, will advance along the lines where nature has best fitted him, and will become awake to the real issues of life.

SECOND NEGATIVE

Henry H. Thomas, Yale

MR. CHAIRMAN: All I have to say to the honorable last speaker is, "thank you very much." He has just proved that he is conclusively conversant, clearly informed, and unmistakeably grounded on education in this country, and then he has the audacity to say that education is the curse of the world. He has proved to me and to everybody else that what is most needed is more education and that the American who fails to get it is lost, then he says education is the curse of the age.

Now as I was cleaning my teeth this morning in a thoughtful mood, it was borne upon me very completely, the theory that we should not meet sober and serious thought with any show of levity. But that we should rather hold ourselves in, that we, the apostles of light, should stand in reverence before any proposition advanced here tonight. As I thought about this, I felt that it was somehow inevitable that our faith would be tried. However, clutching in my right hand my bristle toothbrush and raising in my left the listerine, I determined that I would be insensible to the vulgar shots hurled at me by Princeton, that I would hold fast to the ideals I had.

Now as I was reading my *Saturday Evening Post* in Economics 35A this forenoon. That is a significant statement but I

must let it pass until later. As I was reading my *Saturday Evening Post*, I say, I meditated that if there were no education there would be no Yale and I would be toiling hard in some uncongenial occupation instead of being comfortably installed in that classroom with a full hour to enjoy the pages of that treasure which is enjoyed by two million five hundred thousand people, and remains an immortal monument to Benjamin Franklin. Moreover, and here is something of which I am not a little proud. I took some considerable pains, and, at some considerable sacrifice to my own comfort, I concealed from the professor the fact that I was not giving him all the attention that he might desire. And why was this? Simply because I am a modest man. You see I sacrificed all my natural instincts and I exercised a most unnatural delicacy in considering the feelings of the lecturer, simply because sixteen years of education have civilized me. And if this is what education can do for me, is it to be considered a curse? If education can do this, and it has, then education, I am glad to say, can do anything.

But to return to the *Saturday Evening Post*. I was turning over the pages in Harkness this morning when my eyes fell on a large advertisement. I have it here, huge capitals admonished me to be ready for a change. Well you know that came rather as a shock to me. The explanation behind those words helped me little. I read one line with interest. It said, "Like most human beings, you tell little white lies about some of the things of life." This made me begin to think and to see myself face to face; what a miserable creature I am with my whole life before me. With all those little white lies. It is the strangest thing about lies they leave a black stain behind them. My life is black with all the little white lies I have told. I attempted to compromise by calling these just eccentricities. But such artifice was vain and would avail me nothing in this bitter moment of self-revelation. I read still further on in the explanation. "You say you brush your teeth two or three times a day. Once would be nearer the facts. To tell the truth you are often too lazy." What cruel insight. Here was one of the secrets of my life laid bare before me. It was horrible and the revelation continued. "There are still some people who forget to take a cold bath every morning. Many times they miss the morning bath entirely." Well I thought of the many times I had neglected to turn on the cold

faucet in the winter time. And even once or twice I had neglected my cold bath entirely in order to get to chapel on time, and said nothing about it. I resolved never to tell lies about these things again and that is why I am here now thus publicly confessing and telling my sins. I feel the better for it already. I cannot describe the good this advertisement has done for me. And if for me, why not for all the two million five hundred thousand people who read this paper. To think of the lessons laid before so many people, I say willingly, that advertisement is fit to be read in every American home.

But that is not all that there was in the advertisement. There was beside the one lesson in ethics, another lesson. At the foot of the first column I found in italics, "*Scientists have discovered, according to tests employed in studying mineral hardness, that listerine tooth paste is softer than tooth enamel. Therefore it cannot scratch or injure the enamel. At the same time it is harder than the tarter which accumulates, starting pyorrhea and tooth decay.*" It went on that listerine is really very easy to use. It works fast. With just a minimum of brushing your teeth feel clean and actually are clean. You have the job done almost before you know it. This is on account of the way listerine tooth-paste is made. It contains a remarkable new cleansing ingredient, entirely harmless to the enamel, plus the anti-septic essential oils that have made listerine famous. And how fine your mouth feels after this kind of brushing. Then beside you know that your teeth are really clean and therefore safe from decay. Well that was delightful and I finally found that, by the way, listerine is only 25 cents the large tube. This was in the postscript. And also I see at the bottom of the page, there is a picture, splendidly drawn, of a becoming boy thinking of his mother. All this art, ethics, and science is placed before two millions and more people but if they were uneducated what good would it be to them.

Well after reading this advertising, I happened to look out of the window at the pleasant weather we are having today. Only a few short days and the Indian's happy hunting season will be upon us. I felt within me the impulse to take my hook and line and sally forth to the mountains. I sensed the urge to dance over the rude sward, and yet, Ladies and Gentlemen, here am I with my stiffened shirt expounding words of wisdom in this

decorous style. I submit myself to the rigors of convention and restrain myself from tearing asunder the mores by breaking into a wild fandango, only by virtue of the education to which I have been exposed. Can anyone look me in the eyes and say that this is a curse? Is there anyone here tonight, I leave it to the honorable president, that would really like to see me rushing about scantily clad with only my listerine and my toothbrush? No, we must not be moved by such untutored admiration of the savages tonight. Every educated person knows that the noble savage is a myth, he does not exist, his nights by the fire are unknown. Living with his dusky brood amid the companionship of a few wild goats, his existence is anything but a happy one. True he is not troubled by the lies he tells about his bath, for he never takes a bath. He and his family must work long and late to get enough to keep themselves alive. Now education, if it means anything today, means that sweet little children are allowed to lie in bed until seven or eight o'clock in the morning instead of going out to pick grasshoppers for the evening dinner. Then they are allowed to go sit in school rather than to go fishing as the little savages have to do.

I was rather annoyed by what one of the gentlemen said about kissing a girl, and I heartily hope that the ladies have found out this villain. I think I have repeated everything that I thought about while washing this morning, and I stand frankly by my argument as I stood by the bottle of listerine this morning. I stand by it with all the vehemence of which I am capable.

THIRD AFFIRMATIVE

Barrows Dunham, Princeton

LADIES AND GENTLEMEN: There seems to be evidenced this evening considerable consternation that the three gentlemen of the Affirmative should have spent four years of their lives at Princeton and then approach a Yale audience to affirm that education is the curse of the age. To this I can only reply that the man who knows most about education is the man on whom it has been practised. In only too unfortunate a sense, we are the products of an experiment on the part of the Princeton faculty; and I think the audience will sympathize with us, if, after these four years of mental vivisection, we, like Job, can no longer hold

our peace. I can speak upon this subject with considerable warmth, for I shall never forget a course to which I was subjected in my freshman year. It was entitled *An Historical Introduction to Politics and Economics* and bore some resemblance to Mr. Bryce's *Holy Roman Empire*, in being neither history, nor politics, nor economics. In short, after a year's study in this course, I was in possession of a solitary piece of information, namely, that if ever I am lost in the polar seas and am able to discover the angle which the sun makes with my horizon, I can then determine my latitude. Seeing that the probability is that I shall never be lost in the polar seas, I shall leave the audience to determine the utility of this piece of information.

I have observed, this evening, that there has been considerable use of authority; and, indeed, all profitable discussions should begin with a reference to authority. We have had Mr. Lloyd George and Dr. Samuel Johnson, and most especially Mr. Davenport, on whom the first speaker for the Negative seems to think that the debate hangs. For my part, I have so sincere an admiration for Mr. Davenport that I have no wish to debate him; and shall turn, therefore, to offer you an authority as weighty as any offered. I refer to that virgin intellect which still remains unsullied by the touch of education, Mr. Henry Ford. Mr. Ford, after a lifetime spent in making automobiles, has the following remarks to make on education:

1. History is bunk;
2. Modern languages, excepting English, are bunk;
3. The college man is bunk and a parasite on the community.

In the last of these three propositions Mr. Edison, who has spent his life making electrical machines, concurs. It will doubtless be thought amazing that these gentlemen should be endowed with so universal a knowledge. To this I can only reply that the man who knows how to put my namesake, Mellie Dunham, and his fiddle across to a jazz-loving public, can know anything.

But to recur to the question. The Affirmative is not seeking to define education in ideal terms: it is a condition and not a theory that confronts us. Education, as we define it, is the deliberate development of personality. We have observed that personality manifests itself in three ways, as being characterized by feeling, thought, and will. My colleague, Mr. Pearson, has already discussed the cognitive elements, so that it remains for

me to direct your attention toward the aesthetic and moral aspects of personality.

The general proposition with which I should like to begin is this, that the relation between creative artists and their public audience is reciprocal. Education can help each party, by improving the works of art, on the one hand, and elevating the public taste, on the other. Has it done so? Now, I fancy the true aesthetic spirit manifests itself in three ways. First of all it is an experience of beauty. But when we turn to present-day literature, for example, we discover what is really a perfect passion for ugliness. Realism and sordidness are rampant. I have here a quotation from Mr. Glenway Wescott's novel, *The Apple of the Eye*; and this is the way a love scene is described in modern times:—"Her lover's hands pled for her" (I never heard of that operation before); "his patience was all around her, relentless and fresh. He murmured, (this is very touching indeed) 'the air is smoky; there must be forest fires' . . . He left her a moment and walked up and down in the fields. There the wind rubbed against him with a pair of hot, slender horns."

I shall say nothing about the aptness of a metaphor which compares the wind to a pair of hot, slender, horns, except to remark that it seems to indicate a style which has been vitiated by a course in cattle-raising.

In the second place, the aesthetic spirit manifests a experience of the beautiful object in all its relations simultaneously. Today, however, this experience is definitely one-sided. We have impressionism in painting and poetry which presents an object in such a manner that one would be unable to tell what it is, were a title not appended to it. And it seems scarcely necessary to mention the psychological novel, which treats man as if he were a victim of mental complexes and nothing more.

In the third place the aesthetic spirit is essentially elevating. Set over against this what is happening today. For example, the lady novelists—Fannie Hurst, Elinor Glyn, and Gertrude Atherton. I am not precisely acquainted with the ideas which Miss Hurst means to give the world, and indeed I am not convinced that there are any; but everyone knows the ideas which Mme. Glyn and Mrs. Atherton mean to suggest. Mme. Gyn, after years of study, has come to two conclusions, first that love

is the *élan vital* (that's French) which makes the world go round, and second that she has written the greatest Russian novel of the past fifty years, as if Tolstoi and Anatole France had never existed. On the other hand, Mrs. Atherton disagrees with her, and maintains that on the contrary, it is monkey glands which make the world go round.

One might turn next to the maudlin sentimentality of Mr. Edgar Guest. I have here two stanzas from a poem which he entitles *The Junk Box*:

"A human junk box is this earth
And into it we're tossed at birth
To wait the day we'll be of worth.

"Though bent and twisted, weak of will,
And full of flaws and lacking skill,
Some service each can render still."

Why the world should be a junk box and we pieces of junk, are metaphysical questions which I confess I cannot solve; but I fancy it leaves something to be desired, as poetry.

Next come Mr. H. L. Mencken, Mr. Grantland Rice, and Mr. Bernarr Macfadden—the pseudo-intellectualists. Mr. Mencken uses the ingenious device of interchanging the subject and predicate of a true proposition and getting something which has the virtue of being new largely because no one has been foolish enough to say it before. Mr. Rice, after a thorough-going examination of history, has decided that Nurmi, the Finnish runner, has done more for Finland than any other statesman has done for his country; and Mr. Macfadden is of the opinion that the undraped human form has about it something of the divine. If these writers may be said to be elevating to the aesthetic spirit, then surely human reason has taken a curious twist.

Consider, also, the horrid effects of female education. Nature has given us woman, a creature simple and unadorned in her beauty of mind, a being who needs only the flash of intuition to go into communion with truth. Yet we are confining these lovely creatures of impulse and feeling in a prison-house of intellectual activity; in short, we are doing a most preposterous thing—we are demanding that women shall think. Our greatest

source of poetic inspiration is thus being dried up, for the substitution of brains for beauty will soon deprive us of any aesthetic spirit at all. It is an emergency against which every manly heart will, I think, arise in protest.

To sum up with regard to the aesthetic side of personality. The charge against education is that it has on the one hand, failed to produce artists of any great genius; and on the other, has failed to elevate the public taste to a plain where it shall demand only the best in art.

I shall deal with the moral side of personality more briefly. I think it will be found that morality has two necessary ingredients—intelligence, and social relations. A man, to be moral, must be intelligent; else, his morality would be a matter of mere chance. In Plato's great phrase, "the unexamined life is not fit for human living." Today, on the contrary, morals are taught on a basis of authority or tradition. We are told to act in a given manner, without once knowing *why* we should do so. And as for the social aspect of morals, today individualism is rampant. We are advised today to adore the blond Nordics, and let the rest of society go to the dogs. It is a vicious attitude, which can only breed strife, not to say destruction. Education, then, we observe, has failed to teach us the proper morals, on which civilization will endure.

In conclusion, then, the Affirmative, curiously enough, has a logical case. We have defined education as the deliberate development of personality; and we have demonstrated the ill effects of education upon personality, by its being a factory system and its ignorance of the true ideals of art, morality and intelligence. As a freshman friend of mine says, with that profound insight which only freshmen have, "Man is but an elaborated child." This process of "elaboration" is what we condemn as utterly superficial. A true education would seem to be almost the antithesis of what is afforded today. We have been taught to fall; we must learn to rise. We have been taught to glimpse; we must learn to see. We have been taught to sense; we must learn to understand: until, through proper training we reach that final plane of developed personality, in which conduct is supplemented with wisdom, and wisdom with the true perception of beauty. This is the artist's view of life; and, in the end, the only one worth having.

THIRD NEGATIVE

Basil Davenport, Yale

MR. CHAIRMAN: I had some doubts about my being able to rise. The concluding remarks of the last speaker have so thrilled me, that I can only describe them to be in their exquisite quality like those lines of Browning, "a chorus ending from Euripides," but in their subject they have nothing to do with the one in hand this evening.

We were all having dinner together before the debate, and as I sat beside Mr. Dumbauld, my friend Mr. Dumbauld, if he will allow me to call him so, I proposed to him that, inasmuch as this debate was to be in the modern parliamentary style, we might well extend that one point further. I suggested that he and I pair off, one man from each side, and go to the movies together. I still think this would have been the best thing to do. However, Mr. Dumbauld informed me that he had looked up some words in Latin which he was extremely anxious to air, otherwise he would gladly have fallen in with my proposal. I too read and speak Latin as does Mr. Dumbauld.

*"Vide ut alte stet nive candidum Soracte
Nec iam sustineant onus silvae laborantes
Geluque flumina constiterint acuto."*

There is one unique feature in my efforts as I stand before you this evening. Like Mr. Dumbauld I have prepared a speech. This is remarkable since I have never prepared a subject before. But in this case we have debated the same topic with the English from Oxford and with Harvard at Cambridge. I made this speech twice, once on one side and once on the other, and I saw no reason why I should not make it the third time. As it is, I shall not be able to use it, for I can convict my opponents out of their own mouths. I know my opponents very well. When I came home I found them sitting on my doorstep. I have known most of them since they were freshmen and I met one or another of them at every debate that we have had in four college years and you never saw men with such great capacity for taking the other side. I wish to protest against Mr. Dumbauld's statement that after four years of education they, like Job, were unable to hold their peace. Ladies and Gentlemen, they were never able to hold their peace, about education or anything else.

Now Mr. Dumbauld, my friend, challenges us to look at him. I am very glad to accept his challenge. I have looked at him before and I shall look at him again. I see no reason why I should not do it now. They allege that they are the products of education and by inference exclude all the rest of us. I protest against this unwarranted and covert attack upon the audience, who are under bonds of silence. A later speaker went on to point out that in their case it was a curse, although he took pains to later deny that in a quotation. But I shall momentarily accept their first contention. Look at them. They can speak eloquently. They can quote great names as if in glib familiarity. They can read and do read the advertisements about Listerine, *Snappy Stories*, and Mr. MacFadden's periodicals. Not only have they spent nearly four pleasant years at Princeton but they have given evidence of their attainments. The honorable gentlemen tell you that education debases morals. But have their morals been debased? Does one of them remind you of the "spectre of her past?"

Another of my opponents would have you believe that education destroys one's manhood. He wants you to think of the life he has led and the sacrifice he has made in the journey along the path of education. Again you have only to look into their countenances to discover the truth. They are as the driven snow, not only not wrecked in appearance are they, but rather do they appear like the "noble savage" whom they extol, or the last of the Mohegans himself.

There have been times when education has been a curse. When Browning's grammarian lived and spent all his life studying the "doctrine of the enclitic 'de'" or the Greek dative case. But look at any one of these gentlemen, does not even the least of them far more resemble Lord Chesterfield than any lexicographer you ever saw.

The honorable gentleman who spoke secondly described himself as a red blooded he-man, and as they are products of education today, I could hardly say more.

Another spoke endlessly on the topic of magazines and their effect upon the personality of the reader, all of which I found difficult to adjust into my idea of the confines of the debate. Has the speaker never heard of the Latin stanza of Bacillus Sophias?

"Oleaqua pebeco lux uneeda
 Tydol veedol stacomb corona graflex
 Pepsodent sapolia aqua velva
 Postum nabisco.

Another of our opponents apparently subsidized by the Learn To Memorize Correspondence School read us the pleasing tale of a dinner party where someone quoted "a thing of beauty is a joy forever" and then the man, whom no one knew and who knew that no one knew, calmly remarked, "Yes, that's from Keats." All of the diners looked at one another and said, "Is there anything this man does not know?" If the honorable wished to infer that contact with the classics was only possible through the current advertising media, such as are read at Yale, we disagree with him. If on the other hand, he intended to show that systematic reading of this class of magazines was the result of education, we agree with him, only excepting that it was not of enough education.

Finally our opponents have appealed to authority to support their crumbling case. But even here we will match them verse for verse. In this affair of the sufficiency of education you will recall the memorable appeal of Plato,

"Taisde tais emais heteraisi kai sais."

And for their use of Goethe I can match with Schiller,

"Und was der innere Stimme spricht
 Das taucht die hoffende Seele nicht
 Die Welt wird alt and wird wider jung
 Doch der Mensch hofft immer verbesserung."

Surely you remember how the poet laments what lack of education meant to Dodo.

"Varium et mutabile semper femina."

Finally harken to the wise words of the court jester to Ivan the Terrible who realized as the Princetonians do not even do today that education is the bulwark of national liberties.

"Popolovitch, patruoschka marenky verlan
 Vodka, vodka nikolai darumschka cocain."

Ladies and Gentlemen, these authorities are not to be idly set aside. And now to the final authority, Henry Ford. There

seems to be conviction in the speech of the gentleman who spoke last. He observes that the people who speak best of education are those who know it best. Then he summons as the last witness of the prosecution the erudite manufacturer and historian. It seems that someone asked him what was the greatest need of the country, and he answered, "Justice is what we need most." And in answer to the query how that was to be obtained he replied, "by paying the judges to study more." This I submit is the most serious consideration they have advanced tonight.

The opposition have spoken long and seriously about personality, they have read to us from all manner of journalism, they have quoted the educated sages of twenty-one centuries and to what purpose. All that time they have stood before us as the examples in themselves of education, at its splendid maturity. Of the many curses they have revealed in the contemporary body politic, there were few that could not find their cure not in less education but in bigger and better education. Ladies and Gentlemen, this proposition has a greater enemy than any argument the Negative might set forth in words and it is the example of the Affirmative team here this evening.

AFFIRMATIVE REBUTTAL

Edward Dumbauld, Princeton

If I too may quote Rousseau I should like to bring before you this statement, "If a man is not a fool by the time he leaves college, he must have been a genius before he entered it." And I, of course, give credit for being genii to Mr. Davenport and to all of you who have been educated and notwithstanding have survived unimpaired. He somewhat misrepresents the situation when he says that it was in order to air some Latin that I declined to go to the movies with him. The reasons are as follows; namely, that as Mr. Pearson says, we should have become movie mad, nervous, enmeshed in the influence of that pernicious system which floods the country with evil. Secondly, if we had gone to the movies we should have missed the splendid dinner Mr. Becker provided. The gentlemen of the opposition have admitted our arguments, namely that listerine and education are not panaceas. They have relied on Benjamin Franklin and *The Saturday Evening Post*. I may quote Theodore Roosevelt, who

said that he did not know of a conspiracy against the country which didn't have Harvard brains behind it.

We have heard mentioned Uniontown, Penn., or rather a little village near Uniontown, Waynesburg. Now it is a fact that I know some people who live there, noble savages, if you will, but certainly of a nobler nature than the denizens of jammed New York subways educated by their tabloid sheets, that Mr. Pearson has shown you. Now in order to conclude I suppose I must quote some French, as Mr. Davenport has done. M. Castor-Loissier writes thus of the efforts that Augustus made to make Rome virtuous "Malheureusement on ne prescrit pas le vertu par ordonnance et les mesures administratives ne suffisent pas pour rendre un peuple honnête." Now here is a Latin quotation not previously prepared, as Mr. Davenport suggested, but one of those that frequently pops into my head. It represents St. Paul at the tomb of Virgil.

"Ad Maronis mausoleum
Ductus fudit super eum
Piae rorem lacrimae.

"Quem te," inquit, "jedidisse
Si te vinum invenissem
Poetarum maxime."

Vergil's tomb the saint stood viewing
And his aged cheek bedewing
Fell the sympathetic tear.

Ah, if I had found thee living,
What new music wert thou giving,
Best of poets and most dear?

Virgil had been educated at the foremost universities of his time. He knew all that the Alexandrian school had to give him. But had St. Paul reached him with the new gospel, what music might have reverberated to cheer the world.

THE CHAIRMAN: You will cast your votes on the slips distributed and the judges, Messrs. H. A. Brown, Sidney Withington, and A. Elmendorf will cast their ballots.

I wish to express the gratitude of the Association for this audience and to the judges who gave so generously of their time to attend this function.

The number of votes recorded seems to bear no relation to the number of slips passed out, but I suppose there is no appeal from the chair.

The number of votes for Princeton are forty-five, for Yale one hundred and fifty. That I suppose is natural for New Haven audiences.

The judges after long deliberation, a deliberation which I am sure has been as beneficial to you as to me, have voted unanimously for the Negative.

CHAPTER IX

CHILD LABOR

WESTERN RESERVE UNIVERSITY

RESOLVED: That the states should ratify the pending child labor amendment to the Constitution of the United States.

In the academic year 1925-1926 the Western Reserve University debating squad of twenty-one men conducted its fourth season of local "forum debates," in addition to its inter-collegiate debate schedule. These are intra-squad public debates, held before various lodges, clubs, and associations. Of the twenty-eight debates of this type eight were on the child labor question. The number of speakers in each debate varied from four to ten, the personnel of the teams changing constantly.

No organization is asked to pay anything to secure one of these debates. The only requirement is that the debates will begin promptly at an agreed time, and that the debate program will not be interrupted by anything else. The time of speaking is one hour and a half. An open forum follows the formal debate if the audience wishes to ask questions. Ballots are given the audience for expression of opinion on the subject discussed and for comments on the debate. Usually an alumnus debater is present for the purpose of deciding the debate on the basis of his judgment as to which team did "the more effective debating," and privately discussing the debate with the teams at its close. There is always a vote by the audience expressive of the shift-of-opinion on the question itself.

The debate, of which the following is a stenographic report, was the last of this series on the child labor question. It was held before the Windermere Lodge of the Knights of Pythias, Cleveland, April 28, 1926. R. W. Jeremiah, former member of the National Executive Committee of Delta Sigma Rho, was the

judge. His decision was for the Negative. The shift of opinion of the audience was also favorable to the Negative, in the ratio of two to one. It should be noted relative to the shift-of-opinion vote that only those members of the audience who handed in ballots and expressed a change of opinion as a result of the debate appear in the count. The count shows neither those who did not vote, nor those whose ballots were the same at the end of the debate as at the beginning.

The intra-squad "forum debates" are steadily growing in number and in the variety of organizations interested in securing them. It is the opinion of Professor H. D. Woodward, in charge of debate for Western Reserve University, that they exceed the inter-collegiate schedule in practical value, and the discussions serve as a profitable contribution of the University to the life of the community. Professor Woodward was instrumental in securing this report, with accompanying brief and bibliography, for this volume.

BRIEF
CHILD LABOR

AFFIRMATIVE

The states should ratify the amendment, for

- I. Child labor is a national evil, for
 - A. State action has failed after eighty-five years of effort, for
 1. One state has absolutely no regulation concerning the number of hours children may work.
 2. Four states allow night work.
 3. Eleven states allow children to work more than eight hours per day.
 4. About twenty states allow children to work before they have even had a common school education.
 5. Twelve states allow child indenture, virtual child industrial slavery.
 6. Even in those states where the law appears satisfactory, the insertion of local exemptions has tended to defeat the effectiveness of the law, for
 - a. Maine (for example) exempts from the provisions of the law those engaged in manufacture of perishable goods.
 - b. Delaware exempts those engaged in fruit and vegetable cannery business.
 - c. Of twenty-eight states regulating canneries, fifteen provide for exemptions.
 - d. There is not a single state in the union which does not exempt industry on one score or another.
 7. Enforcement of the law has been inadequate, for
 - a. In one state (Mississippi) they appointed only

one inspector to enforce the law in that entire state.

- b. In another state (Kentucky) they failed to appropriate traveling expenses for the inspectors.
- c. Inspections made under the two Federal laws revealed many states in which bureaus existed whose sole purpose was to sell working permits and thus subvert the law.
- d. Injuries and oftentimes deaths of children have been reported in industries in which, legally, no children were permitted to work.

B. The failure of state action has enlarged the evil to one of serious proportions, for

- 1. According to the 1920 census, there were about four hundred and twenty-five thousand children between the ages of ten and sixteen employed in non-agricultural pursuits.
- 2. According to the 1920 census there were about seventy-five thousand children between the ages of ten and sixteen engaged in commercialized agriculture.
- 3. According to the 1920 census there were one hundred and fifty thousand children between the ages of sixteen and eighteen employed in dangerous occupations.

C. The failure of state action plus the consequent increasing evil has made the problem one of national concern, for

- 1. It is a problem involving the nation's man power.
- 2. It is a problem involving the nation's future citizenry.
- 3. The fact of state regulation being attempted in every state proves the existence of a child labor problem throughout the nation.

II. The states are unable to cope with the situation, for

- A. State laws are evaded by migratory child labor, for
 - 1. Children go south early to work in the cotton fields or the canneries.

2. Large numbers leave Philadelphia to work in Delaware, Maryland, and New Jersey.
3. Children of Ohio cross into West Virginia.
4. New Jersey children work on material shipped in from New York.

B. Powerful local interests check reform.

C. The unjust burden borne by the high standard states hinders progress, for

1. No state wants to handicap its industries by forcing them to use more expensive labor than its competitors use.

D. Progressive states have no protection against the laxity of other states, for

1. Those exploited as children in one state are free to enter the state that has high standards.

III. National action will solve the problem, for

A. It overcomes the difficulties faced by the states, for

1. National laws are nation-wide and cannot be evaded by crossing a state line.
2. Congress will be more free from the influence of big business, for
 - a. It is the focus of public opinion.
 - b. The two Federal laws and this amendment show its readiness to act.
3. A national law will raise all states to a common minimum standard.

B. It has proved effective in actual operation, for

1. The greatest decrease in child labor in the period from 1910-1920 came in the two periods covered by these two Federal laws—60 per cent in mining and 30 per cent in manufacturing.
2. State labor officials testify that the two Federal laws gave material aid.
3. State labor officials at three national conventions have unanimously asked for Federal action.

IV. The amendment is in absolute accord with the fundamental theory of American government, for

- A. We have already shown that it will be an effective national remedy for a national evil.
- B. The fundamental theory of American government is national control of a national evil, for
 - i. The basis of the Revolutionary War and the Declaration of Independence was the idea that the "good of the people" is paramount.
 - ii. The Constitution of the United States provides for a Federal theory of government whereby powers of government are distributed according to national and local necessities.
 - iii. Our policy in the past has been to find national remedies for national problems whenever necessary, for
 - a. Three Federal amendments were passed to deal with the slavery problem when the states had failed to act.
 - b. A Federal law was passed to deal with lotteries when the states failed to meet the evil.
 - c. The same is true of control of the traffic in drugs, control of poisoned food and meats, and control of white slavery, and the trust evil.
 - d. In order to cope with the child labor situation, two Federal laws were passed, but were later declared unconstitutional.
- C. It does not invade the "rights" of the states, for
 - i. It does not take away from the state any power to regulate child labor, for
 - a. It merely gives Congress the power to compel the individual employer to observe necessary child labor regulations.
 - b. It does not give to Congress the power to compel the states to do a single solitary thing.
 - ii. Human right is paramount over any perversion of the Federal theory of government, for
 - a. The issue was raised and settled in the Civil War.

- b. There is no "right" inherent in the state to prevent the nation from doing constitutionally what the state will not or cannot do.
- D. It does not invade the liberty of the citizen, for
 - i. It merely gives power to Congress to regulate or prohibit child labor to the age of eighteen years.
 - 2. There is no danger that Congress will abuse this power, for
 - a. Congress did not do so under the two Federal laws, which were passed in the belief it had full power to act.
 - b. In the District of Columbia, where she has complete power, Congress has not gone as far as some of the more progressive states.
 - c. The states have complete power today to regulate labor beyond eighteen years, and they have not abused it.
 - d. Congress is a political body which will not act against the wishes of its constituents, for
 - i. It is checked by fear of the next election.
 - 3. The amendment is merely a means of protecting our children from exploitation.

NEGATIVE

- I. Federal regulation of child labor is unnecessary, for
 - A. The states have succeeded in dealing with the problem, for
 - 1. Progress was steady up to 1912.
 - 2. Since 1912 it has been even more rapid.
 - 3. The states now measure up to the Federal standard set down in the act of 1916, for
 - a. The states provide a minimum age for factory workers.
 - b. They protect their children from mine employment.
 - c. They specify the hours of employment.
 - d. They prohibit the night work of children.
 - 4. In some respects the states go beyond this standard, for

- a. They prohibit child labor in dangerous occupations.
- b. An educational accomplishment is required in some states before a child may be employed.
- c. All states have compulsory school attendance laws.

B. The existing problem is a small one, for

- I. The 1920 census shows one million and fifty thousand children between ten and fifteen years of age employed, of whom but fifty-nine thousand *might* need further regulation, for
 - a. Six hundred and forty thousand of this number were employed in agriculture under direct supervision of parents.
 - b. Three hundred and sixty-nine thousand were between the ages of fourteen and fifteen, working legally under the second Federal child labor law.
 - c. Of the remaining number, it was said on the floor of Congress that one-quarter (about forty-nine thousand) are newsboys, and a large number are employed in personal and domestic service.
- 2. While the child population of the United States increased 15 per cent between 1910-20, the number of child laborers decreased over 50 per cent.

II. Federal regulation of child labor would be impracticable, for

- A. The child labor problem is not amenable to Federal regulation, for
 - I. Uniform Federal regulation is not flexible enough, for
 - a. The problem is diverse and varies with the locality.
 - b. It can best be solved by local action to meet the specific labor need.
- B. It would create for the states a much greater problem than that of child labor which now faces them, for
 - I. Raising child labor standards from Washington

would intensify the problem of child delinquency, child welfare, etc. facing the states without aiding them to meet these problems, for

- a. It would throw out upon the community a larger number of children.
- b. The Federal government would not and could not act to meet the resulting situation.
- c. The states are in many cases inadequately meeting the problems which now face them.

C. Federal enforcement would be impractical, for

- i. It would require the creation of a huge bureaucracy at Washington which would be undesirable, for
 - a. It would affect family standards, education, and community life.
 - b. It would give impetus to the building up of Federal bureaucracies in kindred fields.

III. This amendment is dangerous, for

- A. It tends to destroy the balance between state and Federal government, for
 - i. This amendment allows regulation and control by Congress of every child under eighteen in the United States, for
 - a. Power to regulate work involves every other activity of childhood.
- B. It vitiates local control of schools, for
 - i. Scholastic standards are a part of every child labor law, for
 - a. Every law in force at present includes them.
 2. Federal scholastic interference gives Congress power to regulate every schoolhouse.
- C. It does not protect but injures children, for
 - i. It raises up a class of loafers who breed crime and poverty, for
 - a. Children up to the age of eighteen could be prohibited from work and so children who have finished educational requirements must loaf although able physically to work, for

- (1) Congress voted down a limitation of the amendment which put the limit at sixteen years.
- (2) Congress voted down limitations that would allow them to regulate only in dangerous occupations up to age of eighteen years.

CHILD LABOR

WESTERN RESERVE UNIVERSITY

FIRST AFFIRMATIVE

Albert B. Walder, Western Reserve

LADIES AND GENTLEMEN: Why is it that young children are working today, when they should be in school? Why is it that five hundred thousand children between the ages of ten and fifteen are being exploited today? Why is it that one hundred and fifty thousand children between the ages of fifteen and eighteen are forced to work in dangerous occupations? Why is it that after eighty-five years of state legislation on child labor, we still have this vast army of child workers? We ask ourselves questions, such as these, and are answered by the facts.

We have had, on the one hand, the evil of child labor. We have had the governmental agency of the states to remedy that evil. The continued existence of that evil, despite state regulation, is very definite proof that state legislation has failed. Congress twice attempted to ameliorate labor laws. However, both of its efforts were declared unconstitutional, leaving it very clear that the only hope of Federal aid is by Federal amendment. Congress, after considering some twenty different amendments, voted upon this one, which is to be discussed tonight by an overwhelming majority. We are asked to adopt this amendment, and we of the Affirmative support its adoption for three reasons:

1. Child labor is a national evil demanding a national remedy.
2. This amendment is the adequate and proper remedy.
3. This amendment is in accord with the fundamental principles of American government.

Now, at the outset of this debate certain things are obvious. We all agree that the exploitation of children should be con-

demned. We agree that the employment of children in dangerous occupations should be stopped. We disagree, however, as to the means to attain that end. The issue is simply this: Shall the Federal government legislate in conjunction with the states regarding child labor, or shall that fundamental duty be left to the states and to the states alone? But, we cannot leave it to the states for state action has failed.

Three factors have entered into failure:

First, the low standard of state laws today;

Second, the numerous exemptions in these laws; and third, the inadequate enforcement of these laws.

Conditions today are far from desirable. One state has absolutely no regulation regarding the number of hours a child may work. Four states allow children to do night work. Eleven states allow their children to work for more than eight hours a day. Paradoxical as it might seem, South Carolina, one of these states restricts its criminals allowing them to work only nine hours a day, while children in that state are allowed to work eleven hours per day. There, the life of the criminal is held more valuable than the life of the child! Twenty states allow children to go to work without even a common school education. Twelve states allow child indenture. In this progressive civilization of ours, one-fourth of our nation still allows child industrial slavery! When we see the states failing to enact such fundamental provisions as regulation of hours of labor, prevention of night work, abolition of child industrial slavery, we cease to wonder that state action has failed. When we see that Federal legislation greatly stimulated the states to remedy some of these defects, then we hope for further Federal legislation.

Then, too, even in many states having good laws, the effectiveness of those laws, is materially decreased by numerous exemptions. Delaware, for example, exempts from the child labor prohibitions, all those children engaged in the packing business. Maine exempts all industries engaged in the manufacture of perishable goods. Twenty-eight states have laws regarding canneries, but fifteen provide for exemptions! There is not a single state in the union which does not provide for exemptions on one score or another. Now, some of these exemptions are valid, but a large number of them are merely

answers to the demands of powerful local interests. When we see state laws riddled and perforated by numerous exemptions, we begin to see the stupendousness of state failure. When we see powerful local interests obstructing state legislation, then we hope for Federal legislation to remove these local and petty blockaders.

The third factor entering into the failure of state action has been the inadequate enforcement of the laws. Mississippi passed a good child labor law and then appointed only one inspector to cover the entire state. Kentucky passed a good law and even went so far as to appoint four inspectors. Then, she failed to appropriate any traveling expenses for those inspectors. Thus, if a Kentucky inspector wishes to enforce the Kentucky law he must travel at his own expense! A wonderful opportunity that law has to be efficiently enforced! Inspections under the two Federal laws revealed any number of states in which bureaus and agencies existed whose sole purpose was to sell working permits and thus subvert the law. The climax of it all comes, however, in the reports of the industrial commissions of Indiana, Wisconsin, New York, Massachusetts and Illinois, when they report that injuries and oftentimes deaths of young children have occurred in occupations in which no children were to be allowed to work. We can argue theory, we can argue opinion, but we cannot argue fact. When we see young children dying in industries in which no children were supposed to be working, then we know that the laws have been inadequately enforced.

These three factors, then; the low standard of the state laws, the numerous exemptions in the laws, and the inadequate enforcement of the laws has resulted in a very definite child labor evil. By the census of 1926, we can measure that evil. It may be wise to add here that since 1920, the United States Department of Labor declares (in 1923) that "a new cycle in child labor is beginning. There has been a very definite increase in the number of children employed since 1920." The only official bureau in a position to know the facts declares that there has been an increase since 1920, but we will consider the low ebb of 1920 as a basis. Even then, there were four hundred and twenty-five thousand children between the ages of ten and fifteen employed in non-agricultural pursuits. There

were about seventy-five thousand children employed in what is known as commercialized agriculture. Young children in their early teens forced to work under the hot blazing sun for unduly long hours under conditions just as oppressive, just as repulsive, as any unfavorable factory condition; such is the character of that work. Four hundred and twenty-five thousand plus seventy-five thousand constitutes about five hundred thousand children employed between the ages of ten and fifteen. Then, there were one hundred and fifty thousand children between the ages of fifteen and eighteen working in dangerous occupations, such as the manufacture of poisonous gases, etc. Five hundred thousand plus one hundred and fifty thousand—making about six hundred and fifty thousand children working when they should be in school and out of danger. Six hundred and fifty thousand children deprived of an education and a fair start in life. Six hundred and fifty thousand children being ground in the mill of industry and then thrown out upon society as social lepers. This is the child labor evil today.

But now you say, "Yes, I believe there is a very definite evil in the United States today. I believe that something should be done, but why attempt to remedy such a local problem by a national remedy?" But this problem is not a local one, it is a national one.

It is known and exists in every state in the union. The mere fact that nearly every state has passed laws regarding child labor is a very definite proof that each state has its problem. The difficulty has been that the states have failed to enact satisfactory legislation. It is a problem foreign to no region or locality in the United States. It involves a nation's man power, a nation's future citizenry. It is a national problem, a national evil.

We have seen the evil, and how it has resulted from a failure of state action. We have seen that the evil is national in character. We have seen that here we have a national evil demanding a national remedy. Let us adopt this amendment.

FIRST NEGATIVE

William H. Black, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: It is indeed a terrible picture which you have just had painted before you

of child labor conditions in America, but conditions actually are not as bad as the gentleman of the Affirmative would have you believe.

Upon examining and analyzing the figures of the number of children employed in child labor today, we find that the actual number of children which really need child labor laws is but forty-nine thousand. These figures will be taken up further and explained in detail by the second speaker of the Negative.

The stand of the Negative this evening is simply this: we agree heartily with the gentlemen of the Affirmative that child labor is something to be deplored; we do not believe that the Federal amendment to the Constitution is the method by which we can remedy child labor. We believe that the states have succeeded. The states have succeeded in dealing with the child labor problem and Federal action is unnecessary. In the second place, we believe that the Federal amendment to the Constitution is impracticable; and, finally, we believe that the Federal amendment to the Constitution is dangerous to the people.

Progress in regard to child labor has been steady and marked ever since the year 1887. It was at this time that Colorado took the first step forward. She established a minimum age of fourteen years before children could be employed. From that time until 1912 progress was slow but consistent, and in 1912 we find that twenty-one states had established such a standard.

Statements which might have been true in regard to conditions in 1912 are not true today. Conditions then were not as they are today. Conditions have improved. We all remember when very young girls were employed in department stores for long hours in the day at tasks which might have been harmful to their health, but these conditions have been removed. This problem no longer exists, and this is merely an example of the way child labor has been eradicated. Since 1912 progress has been more rapid, more consistent and more marked.

Now to propose interference, in the face of this marked advancement and development in the child labor legislation of the states, is entirely unwarranted. But more than this, the

states measure up to a certain definite standard. In order to determine whether the states have succeeded in regard to child labor legislation we must see if they do measure up to a specified standard. We take this standard as the Federal act of 1916. This Federal act set down certain definite requirements before a child might be employed. It said that a child must be fourteen years of age before it could be employed in any industry; it must be sixteen years of age before it could be employed in mining or quarrying industries; it provided for an eight-hour day in the employment of children; and it prohibited the night work of children. These were the points set down in this Federal standard, and these are the points in which the states do measure up to.

Now let us examine the exact figures and see exactly how the states do measure up to this standard. Forty-six states provide for a minimum age of fourteen years before a child can be employed in factories. The two exceptions, which are Utah and Wyoming, provide that a child must go to school beyond this age, thereby more than making up for the discrepancy in their child labor laws. So every state in the union measures up to the Federal standard in regard to the employment of children in factories. Now be sure of this, Ladies and Gentlemen, they may not measure up to the very letter of the Federal standard; but they do measure up in regard to the effect upon the children. All but ten states in the union today prohibit the employment of children under sixteen years of age in mines. These ten states include such states as Rhode Island, Minnesota, South Dakota and other states in which mining is a very unimportant industry, so the states do protect their children in regard to this occupation. The states are protecting their children in this particular. They may not measure up in the very letter to the Federal standard, as the gentleman of the Affirmative has pointed out, but they do protect their children in every state in the union in which mining is at all an important industry. In this particular the states measure up to the Federal standard. They are protecting their children.

Thirty-six states provide for an eight-hour day, and a forty-four-hour or forty-eight-hour week. Practically every state in the union measures up in this particular to the Federal standards, and in this field the progress has been very marked

in the last ten years. The number of states which have passed legislation in this regard has more than doubled in the last ten years. In the face of this progress we can hardly take the jurisdiction from the hands of the states and place it in the hands of the Federal government by the Twentieth Amendment.

Forty-five states prohibit the night work of children under sixteen, thereby measuring up to this Federal standard, and the three states which do not prohibit the night work of children do limit the labor of their children to an eight-hour day or forty-four-hour or forty-eight-hour week, thereby effectively protecting their children in this detail. Every state protects its children in regard to night work today. There is no necessity for an amendment to the Constitution.

We see that the states do measure up to this Federal standard; they are protecting their children. But they go beyond this Federal standard; they set down certain requirements which were not provided for in the Federal standard. Every state in the union protects its children from dangerous and injurious occupations under the age of sixteen. This is the statement of Nina F. Allen, former chief of the Child Labor Division of the Treasury Department. And so these figures which the gentleman of the Affirmative brought out in regard to one hundred and fifty thousand children being employed in dangerous industries do not apply to children under sixteen. Children under sixteen are protected in every state of the union from dangerous and injurious occupations. The states are protecting their children in this particular.

Thirty states require an educational accomplishment before a child can be employed. Thirty states likewise provide for a physical requirement before a child can be employed. In these two respects they go beyond the Federal standard in protecting their children.

But not only do the states protect their children by means of the child labor laws; they also protect their children by means of compulsory school attendance laws. Every state in the union compels its children to go to school until the age of sixteen years or beyond, thereby effectively requiring education. In this respect the states are protecting their children today without any necessity for Federal action, such as the gentleman of the Affirmative proposed.

And so, Ladies and Gentlemen, we say that it is not a case of having Federal regulations, through the adoption of this amendment, and perfection. It is not a case of having this on one hand, and failure under the state laws, if we do not ratify, on the other. Because state laws are effectively protecting the children today, there is no necessity for a Federal amendment to the Constitution.

SECOND AFFIRMATIVE

John N. Adams, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: The preceding speaker has attempted to show that the states have measured up to what is expected of them in the way of child labor laws. For instance, he says that all the states measure up to the Federal standard in the laws in which they say that no child under fourteen shall be allowed to go to work. Yet the fact remains that twenty-three states make exceptions so that a child under fourteen may go to work. And then, I forget the number he stated, but a certain number have provided an eight-hour day; yet ten of those states allow exemptions. Then, too, only one-fourth—only twelve states in this union—provide that their children shall have at least a common school education before they go to work. Think of it—only one-fourth of the states of this union insure that their children shall have a common school education before they start out in life.

He has attempted to show—by citing his own figures he has attempted to give you the impression that all the states have measured up to the standards of the Federal laws. This is what a bulletin of the Department of Labor says in that respect: "Though the child labor standards of those laws are relatively conservative, only eighteen states now measure up to them even in regard to work in mills, factories, canneries, and workshops, and only thirteen measure up to them in all particulars."

That is the official word of the United States Department of Labor. So we see that the states have failed to protect their children.

Then, we wonder if the states can be expected to improve so that at sometime in the future they may take care of the

situation. Well, let's see why the states have failed and see whether they can be expected to improve. They have failed for four reasons: migratory child labor, opposition of powerful local interests, the unjust burdens borne by high standard states, and migration of the adults who have been exploited as children.

First, the migratory child labor. State child labor laws are evaded merely by crossing a state boundary line. For example, studies made by the United States Children's Bureau show that large numbers of children are going from northern cities to work in Florida, Louisiana, and Alabama. Railway officials state that thirty-five hundred yearly go from Baltimore alone. Likewise, the truancy officials of Philadelphia report that over three thousand children leave Philadelphia every spring to go to work in Delaware, Maryland and New Jersey, not to return until late in the winter. Ohio has no way to prevent its children from working long hours or late at night in West Virginia. And this game is played in another way. The House Committee on Judiciary reports as follows: "A recent investigation of home work by children in Jersey City disclosed the fact that more than one thousand children, the majority of them under fourteen, were doing sweat-shop work in their homes under dangerous and unsanitary conditions."

This report goes on to say that this work was distributed from factories in neighboring states, thus New York manufacturers who were sending their work to Jersey City were not subject to the penalties imposed by the New Jersey law; in this way they succeeded in dodging the state laws.

A second cause of the failure of the states is the opposition of powerful local interests. In most states large corporations have considerable influence and of course they put their influence and their power against child labor reform, because they want to use cheap child labor. Through their lobbies they try to prevent the passing of adequate laws and if a law is passed, they try to prevent that law's being made effective. How successful these interests have been the facts stated by my colleague have shown; they have prevented effective laws being passed or else rendered ineffectual laws that were passed.

The third cause of the failure of the states is the unjust

burden borne by the high standard states. The present condition penalizes a state for taking advanced standards in regard to child labor. A manufacturer who is forbidden to employ children is at a disadvantage in competition with those who can use cheap labor. So a state is slow to pass child labor laws, for no state wants to hamper its industries. If it should enforce an adequate law, the manufacturers would either evade the law or try to find a state where they could employ children.

One example: Mr. Fuller says that the cotton manufacturers of New England are extending their operations in the south on the expressed ground that there they can take advantage of child labor.

The fourth cause for the failure of the states is the migration of those who have been exploited as children. A state such as Ohio tries to raise the level of its citizenship by prohibiting child labor, but her efforts are useless because those in other states are free to enter Ohio and become citizens. Thus its efforts are made null by an influx of those who have been exploited as children in other states. In the face of such conditions the individual progressive state is likely to lose its enthusiasm—what is the use of trying? is the natural attitude.

So for these four reasons the states cannot meet this child labor situation.

On the other hand, a brief survey of those causes will show that the Federal government can prevent child labor because it can overcome these difficulties. First, migratory child labor. A national law will be nation-wide. The law cannot be evaded by crossing state boundaries.

Second, opposition of local agencies. We do not say that Congress is beyond the influence of corporations, still it is more the focus of public opinion than are the local state assemblies. That Congress will act is shown by the fact that it passed two laws which only eighteen states have equalled.

Third, unjust burden on high standard states. A national law will be uniform and bring all states up to a common minimum standard, so that there will be no question of competition between manufacturers in a state that allows child labor and manufacturers in a state that forbids it, and no incentive to seek a state that will permit the employment of children.

Fourth, the migration of those who have been exploited by child labor. A national law will raise all the states to a minimum standard so no state will feel that its efforts are being flouted by the manufacturers of some other state.

So you see that Federal action will overcome these four difficulties the states face. That is why Congress passed the first Federal child labor law; that is why Congress passed the second Federal child labor law; and that is why this amendment is necessary.

After all the proof of the pudding is in the eating. A theory is only a theory until we see it put into practice, but we know that Federal action will succeed because we have seen two Federal laws in actual operation. That those laws were successful and effective is indicated by the fact that the greatest decrease in 1910 to 1920 came in the two phases that were covered by these two Federal laws, a decrease of 60 per cent in mining and a decrease of 30 per cent in manufacturing. And then the state officials, those men that are trying to meet this child labor situation day after day, for that is their work, those state officials in every case in which they have had anything to say about child labor, except one, that is Connecticut, say that these Federal laws helped the states materially. At two of their national conventions these labor officials were unanimous in asking for Federal control of child labor, and at a third convention held in 1924 they unanimously urged the adoption of this amendment to the Constitution.

These state officials know how well the states are able to take care of child labor, they have had experience with these two Federal laws in actual operation, and having had that experience and knowing what the states can do, they join in asking that the national government take charge of this matter.

And so we see that the states cannot meet the situation for four fundamental reasons: migratory child labor, opposition of powerful interests; unjust burden on high standard states, and migration of those adults who have been exploited as children.

We see, too, that Federal action overcomes these difficulties, for we have seen that the two laws that we have had in actual operation were effective.

Now on the other hand, if the gentlemen of the Negative

are afraid of national control of child labor, let them show in those two laws just what they are afraid of. There is the chance to use concrete evidence, to show us what they are afraid of. If their arguments are to be more than assumptions, let them use those two laws as concrete evidence of the evils of which they complain.

SECOND NEGATIVE

David H. Goodman, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: Before I take up the second constructive argument of the Negative I would like to discuss with you a few things that the gentleman preceding me stated. For instance, he has told you that it may be true that throughout our nation the states have passed adequate child labor laws, but the efficacy of these laws has been destroyed. Why? Because the states have passed exemptions. Rather than to believe that exemptions destroy the efficacy of state laws, it is the contention of the Negative this evening that exemptions are necessary and vital to the adequate enforcement of child labor regulations. Rather than believing that Federal regulation could exist without exemptions, we believe that such legislation would be impracticable if it were without exemption. In fact, the Congress of the United States itself, in legislating merely for the District of Columbia, found it couldn't regulate child labor without exemptions, found it absolutely necessary to exempt the labor of children in the Senate. Thus we see that we cannot expect to see child labor legislation in the United States without exemptions to meet the specific problems which face any one locality. In addition to that, the gentleman has mentioned to you the case of New York manufacturers shipping work over to New Jersey where standards were low, and having sweat-shop conditions existing in New Jersey under which children were working on clothing. Where the gentleman got his information we don't know, but in an extract from the report of Andrew F. McBride, Commissioner of Labor for New Jersey, we find the following statement: "Our observations of this home work indicate that child labor does not prevail in this class of work."

Now, thus far the Negative has shown in the first place that

there is no necessity for passing a Federal amendment which will give the Federal government power to regulate child labor, because the states today are meeting that problem by their own legislation and because there is a steady tendency to raise the standard of state legislation. In continuing the argument for the Negative, I wish to show you the actual problem presented by child labor. The number of children employed in child labor is not so great as to warrant the passage of an amendment to the Federal Constitution.

The first speaker for the Affirmative has taken up the question of the number of children employed in child labor, and has painted for you a rather dire and dreadful picture of the condition in which the youth of this nation is. Looking at the census for 1920 we find between the ages of ten and fifteen that there are in round numbers one million children employed. Of that one million children, six hundred and forty thousand are employed in agriculture under the direct supervision of their parents on their parents' farms. Thus for this large class of children no regulations are required, leaving four hundred thousand children between the ages of ten and fifteen who might possibly require some such regulation.

In examining that group we find three hundred and sixty-four thousand between the ages of fourteen and fifteen at the time the Federal census was taken. In 1920 the second Federal law was in existence setting up definite standards, permitting children between fourteen and fifteen to work, and thus these children, three hundred and sixty-four thousand of them, we find working legally under the standard set up by the Federal law of 1918. Again here we find a group who need no further regulations. This leaves a group of some forty-nine thousand children, and here again it would be a great assumption to assume that this entire group needs regulation.

It was stated on the floor of Congress that perhaps one-fourth of this group is made up of newsboys, and a large number are employed in domestic and personal service. There is a great question to me whether these groups need regulation. Thus we see, taking the figures as they exist, that the greatest possible number of children in the United States who might require further regulation is but forty-nine thousand.

Some significant figures again with reference to this census:

we find from the years 1910 to 1920, while the actual population of children in the United States increased some 15 per cent, the number of children employed in gainful occupations decreased over 50 per cent. In other words, the child labor problem, rather than being a growing problem is one that is decreasing and decreasing rapidly.

The Negative has shown you thus far, that it is unnecessary to give to the Federal government the power to regulate child labor problem by means of an amendment to the Federal Constitution, first because the states today are meeting this problem by adequate legislation, and in the second place, because the problem which actually exists due to child labor is a very small one. Our next point is that Federal regulation of child labor would be impracticable. It would be impracticable in the first place because the problem which results from child labor in the United States is by no means a uniform problem, and Federal regulation of any problem means uniform and inflexible regulation. We do not believe that the same law can regulate the son of the ranchman in the west, and the son of the farmer in the east; nor can the same law regulate the factory workman in the north and the textile worker in the south. We believe it is incumbent upon each locality to meet the specific problems which present themselves in that locality, and only by that means, by local action to meet local need, can the problem be met and met effectively.

In the second place we believe that the child labor problem which exists throughout the nation is not a problem by itself; rather that it is an integral part of a much larger problem which is facing the various communities of the nation today, including the problem of child education, child welfare, child delinquency, mothers' pensions. It would be impracticable to take from the states the power to regulate the small part of this problem which is represented by child labor and give that to the Federal government while allowing the states to regulate the rest.

We find that the propaganda in favor of this amendment arises largely from the fact that there are some low standard states. If you are going to give the Federal government the power to regulate child labor you are of course going to set up higher standards than now exist in those states. These standards are going to result in throwing on the community

in these states a larger group of children than they now have, whereas these states today are failing to meet the problems which exist there now. This means that giving the Federal government the power to regulate child labor will force upon these communities problems which are much greater than those which face them today; that rather than solving the child labor problem which faces the localities today it is going to create a much larger problem of child welfare and child delinquency which the states in those rather delinquent districts are today not meeting any too adequately.

In the third place, we believe that Federal regulation would be impracticable, because of the difficulty of enforcement of Federal regulation. The gentlemen this evening have told you that state enforcement is rather unsuccessful, meaning this: that if Federal regulation is to be successful, if it is to be efficient, some successful enforcing agency must be built up. The gentlemen have one of two choices, one thing they can do is to take over the state enforcing agencies. But they have admitted that these agencies are no good. We do not believe that merely giving the Federal government power to regulate will work any transformation on these state agencies. Or, our opponents can set up a bureaucracy in Washington which will take care of the problem. We do not believe a bureaucracy from Washington is desirable in the regulation of a question which delves into the homes, which affects education, which affects the standards of families and enters into every community of the land. We have had too much experience with governmental bureaucracies in this nation to want to foster any movement which will tend to increase the number of bureaus and to extend bureaucratic government in Washington. We must remember that this child labor problem is but a small part of many other problems and if we are going to give the impetus to this movement due to the passage of the child labor amendment we are going to have a flood of legislation in Washington which is going to require the further building up of bureaucracies.

THIRD AFFIRMATIVE

William A. D. Millson, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: The preceding speaker has taken for his contention the idea that this amend-

ment must inevitably fail for two reasons: because it would involve educational problems and other problems; and because, as he said, it cannot meet local conditions.

I should like to ask the next speaker to prove that the two Federal laws which actually passed did not meet local conditions, or that they did involve an educational problem which Congress had to act upon. It is incumbent upon the gentlemen to prove that such is the case, since here we have the two Federal laws which actually are an evidence of what Congress has done. If what the gentlemen believe to be true is actually true they can bring forth evidence under the two Federal laws, of that fact.

Now the preceding speaker has said that one of the great issues in this debate is whether or not this amendment is dangerous, whether or not it is going to destroy the fundamental character of our government. It shall be my pleasure to meet the gentlemen on that issue, and to show to you that this amendment is in absolute accord with the fundamental theory of American government.

But what is that theory, Gentlemen? We are not particularly concerned with the mere form, the mere structure, the mere mechanics of government; we are more concerned with the fundamental idea, the fundamental purpose upon which that structure is based. I think that perhaps Abraham Lincoln expressed it better than anyone else when he said, "Our's is a government, not only of the people, not only by the people, our's is a government for the people." That is the essence, the very basis of American government. The good of the people is paramount, that is the basis of American government. And so, when England attempted to impose upon our colonies a colonial system which harmed the American people, we said that no perverted theory shall stand against human rights. We made a Declaration of Independence in which we declared that every person had an inalienable right to life, liberty, and the pursuit of happiness. It was upon that principle that we fought for and gained our freedom, and then we attempted to establish a Constitution. Against that Constitution there arose men who said: "Let us not form a nation, let us remain as colonies." But men more sensible than that, men like Washington and Hamilton, even Thomas Jefferson,

said: "Let us give to the national government all the power that is necessary to protect American life." And that is what was done. We formed a Federal theory of government; we gave to the national government certain national powers to deal with what we deemed at that time to be national problems, and we reserved to the state governments local powers to deal with local problems. As our civilization became more and more complex, we met more and more problems, and whenever we had to have national action we have had national action. Whenever we have had a national problem we have met that problem with a national remedy; whenever we have had a local problem we have met that problem with a local remedy; whenever we have had to have national action we have had national action; whenever we have had to have an amendment we have had an amendment. Our policy, in a word, has been: national control of a national evil.

Let us illustrate that for you: when slavery had become an open sore in the side of our nation, when the states had failed to deal with the problem, we passed the three Federal amendments, and because those amendments were delayed we had a Civil War. When lotteries had become an open disgrace, when again the states had failed, again we embarked upon the policy of national control. When our food was being rendered poisonous and unwholesome and impure, when again the states had failed, again we put in operation the policy of national control. When our women were being forced into the degradation of white slavery, when again the states had failed, again we put in operation a policy of national control. When our people were being debased by the use of drugs, when again the states had failed, again we put into operation the policy of national control. In a word, throughout our history our policy has been: national control of a national evil. The good of the people is paramount; and so, when in 1916 we saw that child labor had become a national evil, was passed a Federal law, and again in 1919. That last law was in operation for three years. We know what the effect of that law was; we know what can be done in the future. We know that there was better enforcement of the law in all the different states. We know that there was better inspection in the mines, in the mills, in the factories; we know that there was better control

of migratory labor; we know that child labor was cut almost in two.

And what were the evils under those two laws? If there were any evils in Federal action the gentlemen can find them here under the two Federal laws. Here we have an evidence of Federal action, why don't the gentlemen get down to facts? Why don't they point out to you what those evils are? Because there were no evils under those two laws. There was no nationalization of our youth; our children were not turned into lazy louts; our boys and girls did not refuse to work for their mothers and fathers. There were no evils under those two Federal laws, and yet the gentlemen fear Congress. They fear to give to Congress the power to regulate child labor, and at the very moment they fear to give to Congress any power at all to regulate child labor, they would give to the states the entire power not only to regulate labor up to eighteen years but to one hundred and eighteen years.

The gentlemen forget one thing, that Congress is subject to the same check as the states—the fear of the next election. No Congress, no legislature willingly goes contrary to public opinion. Yet the gentlemen have this fear, a deadening fear, a paralyzing fear it is—that fear that has stood against every bit of social legislation that we have had in the past. It stood against the slavery amendment, and it has stood bitterly against control of every one of these evils we have mentioned. It is the fear of national action. If we took that attitude nothing would ever be done. We could take that attitude. We could allow our people to be debased by the use of drugs; we could allow our food to be rendered poisonous, and unwholesome, and impure; we could allow our women to be dragged into degradation; we could allow black men and women to be bought and sold like cattle; we could allow all that, if it were in accord with American principles. But we haven't done so, we haven't had so little good sense, so little humanity that we could endure those things. We have preserved a fundamental theory of American government, national control of a national evil. It is in that spirit that we offer to you this amendment, an amendment which has the support of over two-thirds of one of the most conservative Congresses in our history, an amendment which has the support of the President of

the United States, and the American Federation of Labor. And yet the gentleman says it is going to harm the states.

In what way will it harm the states? We do not ask that any power be given the Congress to compel the states to do a single solitary thing. The state can still go ahead and regulate child labor. All we ask is that Congress be given the power to say to each individual employer: you shall not employ our children at a time when they should be in school; you shall not employ our children at a time when they should be asleep; you shall not employ our children at a time when they should be out of danger. Yet we hear this cry of states rights. We heard that cry against the slavery amendment. At that time we said, it is a perversion of the theory of our government; and we freed the slaves. We said that no state has a right to prevent the nation from doing what the state will not do or cannot do. No state has a right to leave unprotected American children. Let me read to you what Theodore Roosevelt, who perhaps more than any other man has expressed America in our generation—what Theodore Roosevelt has to say: "States rights should be preserved when they mean the people's rights, but not when they are invoked to prevent the abolition of child labor."

The issue is simply this: shall the nation protect its children from exploitation? We plead that child labor has become a national evil; we plead that the remedy is before you; we plead that this remedy is in absolute accord with the fundamental theory of American government. The nation must protect its children.

THIRD NEGATIVE

L. Robert Critchfield, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: The gentlemen of the Affirmative this evening have asked us to take those Federal laws that they have talked about and show where in those laws the Federal government interferred with education, how they failed to meet local conditions under those laws, and what we are afraid of in those laws. To allay some of their fears and trepidations I will discuss those laws briefly now, because they haven't told you just what those laws contain.

It is easy to take a law that never had any strength and never was enforced, and say, point out faults in that law and dangers in that law. They spoke much of the Federal child labor laws, but they didn't tell you that those laws only laid down a standard for the states to live up to. They didn't tell you those laws were indirect in operation, and dependent on the states for enforcement. They didn't tell you that this amendment means direct action by the Federal government on the people. They didn't tell you any of the things about those laws which might be said, so they think it is safe to say, point out dangers in those laws and faults in those laws. You cannot point out faults and dangers in something that never had any force, and those laws had no force, they depended only on the state laws that were in existence. Under one of them there were only five inspectors over the forty-eight states of the union. The laws didn't mean anything at the time, they don't mean anything more now except as a standard by which we can judge whether our states now are living up to their obligations in regard to the children.

Now the last speaker for the Affirmative has undertaken to prove to us that this policy and this amendment is in accord with our national principles. The principle he takes to work on, makes it a fairly easy job. He sets down as a fundamental principle of our government this: that the good of the people is paramount. Why, Gentlemen and Ladies, what couldn't you justify on such a principle? What thing that is intended to benefit someone couldn't be justified on that basis? What couldn't be said to be in accord with our policy? If that were a policy of the government, could the Supreme Court ever declare anything unconstitutional? Could Congress ever refuse to do anything which would benefit any individual in the whole country? Of course not. There is a narrower principle; and, although the gentleman hasn't mentioned it, he has based his speech on it. That principle is this: that the Federal Congress takes over control of those things which the states have absolutely failed in, and which are interstate in character.

He quoted you some examples, and every one of those examples are things that are interstate in character. Congress didn't take those over through any story about the good of

the people being paramount; it took them over because they were interstate. He talked about white slavery, about pure food laws and about lotteries—all interstate in character. To prove that this child labor amendment is in accord with our policy he must prove that child labor is interstate. Our opponents have attempted to do something about that, they have tried to show you that migration in labor makes this an interstate problem. But is this problem interstate in character? The United States Supreme Court declared the last child labor law unconstitutional on the ground that while it was intended to come under the Interstate Commerce Clause, it was not an interstate matter. The Supreme Court of the United States has set its seal on that. The gentlemen of the Affirmative don't believe it, they say that it is interstate, that there is migration. Yet Secretary Hoover says that child labor migration today is negligible. If there is any migration, the Affirmative should submit figures on it; but there aren't any figures on it, it is so small. Still, if there is any migration, there is a remedy; and it is not such a drastic remedy as they propose. Every state in the union has educational requirements. Instead of wasting time changing the system of government to end child labor, why not spend time in enforcing the state laws strictly. We believe that while the state laws are being reasonably enforced now, there is always room for improvement. Let's enforce the state laws in education more strictly and do away with the problem at its very source.

The Negative so far has proved first, that such a drastic step is unnecessary. The states today have good laws, the laws are constantly increasing. In the last four years thirty-seven states have taken further action on this matter. Our second speaker has told you that this remedy they have proposed is impracticable due to the great complexity of our country, and that one central Federal law on this subject will build up an inefficient bureaucracy. He has shown that this is one part of a great social problem, and the only way to solve that problem is to take it in its entirety and not separate it into its parts and divide the parts between the states and the Federal government. As the concluding speaker it shall be my purpose to prove to you that this amendment is absolutely dangerous.

The last speaker that preceded me said: why doesn't the

Negative get down into the facts and point out the evil? He was a little premature. If he had waited I would have pointed out the evil to him. In the first place this country of ours is unique for two things, its tremendous size and its economic diversity. The founders of the country saw that and devised for us a system of government known nowhere before on earth. The creators of that system of government realized that one Congress at Washington could not pass a law equally just to farmer, manufacturer and plantation owner. To that inspired plan which reserved all power to the states, except certain enumerated powers given to the Federal government, we probably owe our present prosperity.

There are always cranks who tend to go to extremes. One set led into the Civil War, another set today would say: take all the power away from the states and give it to the Federal government. The gentlemen of the Affirmative are here tonight with this amendment. What does it mean? On which side is it, or does it preserve the balance between the state and Federal government? This amendment says: take away from the states the control of one-third of their population and give that control to the central government at Washington. There is a delicate balance between the state and the Federal government; that balance has been preserved through our Constitution. The gentlemen of the Affirmative would take away from the states the control of forty million children under the age of eighteen; they would give that control to the Federal government. It is for them to justify that and to show that it would not upset that equilibrium between the state and the central government.

And along the same line, there is still another danger—it is in education. Every child labor law regulates education. There is no use in arguing that. The gentlemen of the Affirmative have told you that. They condemn state educational laws today and say that the Federal government should control education. What does that particular thing mean? It means that our system of education today in the United States would be overthrown; it means that our community, our local control, based on the idea that the community knows best what it is the children should learn, should be turned over to the Federal government, the state should be taken out of the school house

and Congress allowed to dictate the courses in the curriculum. All child labor laws are justified on the ground of protection to the children. This law cannot be justified on those grounds, it goes up to the age of eighteen years of age. That means that the children who have finished their educational requirements, who are sixteen and over, and who are physically able to work are not permitted to work, it means that we raise up a great class of loafers in the country—children who are not in school and who are not allowed to work.

The gentlemen of the Affirmative have a sublime, almost childish belief that Congress won't use this power. Congress cleared that up for us when it foresaw that and voted down an amendment to this amendment which would have limited it to the age of sixteen.

They say, again, Congress only wants this power to regulate dangerous and unhealthy occupations. Congress thought of that too and voted down another amendment to this amendment that would have put the limit of sixteen to eighteen years only on dangerous and unhealthy occupations.

The gentlemen of the Affirmative leave out entirely from their calculations all agricultural labor. Congress didn't. Congress voted down an amendment to this amendment which said that agricultural child labor over the age of sixteen shall be allowed. What have the gentlemen of the Affirmative to offer contrary to that? Congress knows what it is going to do. The gentlemen of the Affirmative are guessing. They set their guess up against what Congress has already voted on.

The least that can be said is this: we don't know what Congress will do with this power. We are giving them certain unlimited powers. It is the same thing as signing your name to a blank check and giving it to someone else. We believe the best thing to do is not to take a chance; let's limit the power we give to Congress or not give it to them at all.

Senator Thomas of Colorado said that, on account of the eighteen-year-old ruling, this is the cruellest bit of legislation ever passed by the United States Senate.

We of the Negative have shown you this evening that the proposed action is unnecessary on account of the states' success today; that it is impracticable because it will centralize the government, build up a bureaucracy and destroy real con-

trol of local problems; and finally we have shown you that it is absolutely dangerous to the American people, in that it upsets the balance between the state and the Federal government, destroys local control of education and raises up a class in the United States which will not be protected by the law but will be injured by it.

FIRST NEGATIVE REBUTTAL

Roland A. Mulhauser, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: I was once told that a good speech should be like a flapper's skirt, short enough to be interesting, and long enough to cover the subject. I shall endeavor to be both.

It seems that the main contention this evening is whether or not the national child labor amendment is necessary, the Negative maintaining that the state laws are meeting the need adequately, whereas the Affirmative have an opposite contention.

The last Affirmative speaker left the platform with a very impressive statement made by Theodore Roosevelt in which he favored a national law; but he forgets to tell you that the statement was made in 1907, when the conditions were entirely different, when state laws did not adequately meet the problem. But conditions have certainly changed since then.

Not only does the Negative maintain that the state laws are meeting the problems adequately, but that these state laws are being rapidly developed. Now of course we cannot analyze the laws of every single state in our country, so with due justice to our opponents we will take the five states in this country which in 1922 were considered the very worst by our opponents' authorities. Those were Mississippi, Arkansas, Alabama, Georgia and Louisiana. Let us see what these states have done in the last few years. I am taking 1922 as a starting point because it was at that time when all national legislation on the matter stopped and all state legislation was free entirely from any national inspiration, being enacted entirely of the states' own accord.

Mississippi in 1924, according to Nina Frances Allen, who was in charge of the enforcement of the last national law,

Mississippi in 1924 in every single detail came up to the standard of the two previous national laws.

Arkansas in 1924 did the very same thing, according to Miss Ada Y. Reed, Professor of Education at New York University.

Alabama, which in 1922 was considered one of the very worst states in our country in its child labor laws, now has, according to Mr. Pritchett, the president of the Carnegie Foundation for the Advancement of Teaching, child labor laws which rank it among the four greatest in our country at the present.

Georgia, the fourth one of the five worst, has also developed its child labor laws so that it, in every single detail except one, meets the national standard. That one detail concerns the number of working hours per day. In other ways it exceeds the national standard, for example, relative to working permits—physical examination is required before the permits are granted. Thus we see, Ladies and Gentlemen, that four out of the five worst states have, within the last three years, developed their laws so that they equal the national standard in every detail, and in some details, exceed it.

Now, if the worst states in our country have progressed so remarkably is it not reasonable to assume that our other states have done likewise? Authorities bear us out in this matter. The unprejudiced *American Labor Year Book* has a similar report. Henry S. Pritchard, president of the Carnegie Foundation, Joseph Lee, even our opponents' chief authority, the National Child Labor Committee, must admit that "there has been decided improvement along the more conventional lines of child labor reform in recent years."

As a matter of fact, within the last three years eight states in our country have so developed their child labor laws that they are at the present time up to the national standard. In the last three years, when there was no national law to encourage the states, we find twenty-two of them advancing their laws, whereas in the five years in which the national laws were enforced only ten states had developed their laws. Thus we can readily see how the states are developing their laws to meet the problems.

Investigating the arguments of our opponents, we find that they complain against the state laws regarding education, namely that they do not require an attendance at school until the

pupils complete their common school education. But our opponents forget to tell us that every single state in the union requires attendance at school up to the age of fourteen, the average for the states being sixteen years. Every state in the union, Ladies and Gentlemen, prohibits the working of children in factories, up to the age of fourteen. Every single state in the union prohibits the working of children at dangerous occupations up to the age of sixteen, twenty-eight states advance that up to the age of twenty-one.

With such statistics as these in mind we can readily see how the state laws are being developed at the present time to meet the problem.

FIRST AFFIRMATIVE REBUTTAL

Henry Kutash, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: In opening the rebuttal for the Affirmative it seems necessary, before we do anything else, to cheer up our rather pessimistic, our rather down-cast friends of the Negative with regard to the situation that will follow the adoption of this most dangerous amendment to the American Constitution. They have painted pictures that would lead us to believe that if we had this amendment we would have a seventeen-year-old son refusing to crank the family Ford, or a seventeen-year-old daughter refusing to wash the dishes. Let us see how much actual basis there is for fearing any such exercise of powers on the part of Congress.

Taking away all the smoke screens of fear with regard to what Congress will do, let us see what the power is that we are giving to Congress. As has already been pointed out the states have always had, since their very inception, the power to regulate labor, not up to eighteen, but up to one hundred and eighteen. There is no limitation at all with regard to age that would restrict action by the state legislatures. Yet now you are fearing to give to the national government—Congress—a much more respectable and a much more reputable body, much more in the focus of public opinion, a small part of that power. Beside, you are not giving them something new. You must remember that up until ten years ago everybody thought Congress did have that power. Congress, in 1916, acted on the

power it thought it had, and a great many of the country's ablest lawyers thought it had, passed the first child labor law. A small group of manufacturers, with constitutional authorities, got the Supreme Court to declare in a five to four decision, that this was unconstitutional—one judge's decision determined whether Congress had that power. Even now four justices of the Supreme Court think that Congress had this power. Certainly there is nothing to fear in giving back to Congress a power so many people thought Congress always had.

"But," they say, "the faith of the Affirmative is sublime and childish." Now, we have the facts here in the case of the first and second child labor laws. Congress passed the first and second child labor laws. What was wrong under those? The government didn't crash; things went on; the government endured in spite of that. Their argument is: it was indirect. Yet Congress didn't have to act indirectly in the District of Columbia; and what was the result there? We had an active enforcement of child labor law, and we didn't have any silly prohibitions against children helping their parents. There you have absolute proof—not "sublime and childish faith," but absolute proof of what Congress will do when given this power.

Our friends of the Affirmative have attempted to picture Congress as a sort of monster, grasping for any chance to exercise a power it can possibly exercise dangerously. If you give Congress this power, they say, it is as though you signed a check and gave it to someone else. Now if that is the attitude you have toward congressional power you should never have had a Constitution in the first place, because if Congress were the type of body they seem to think it is, they could levy a 100 per cent tax, declare war on every nation, suspend the right of habeas corpus and bring the nation to wrack and ruin. Yet we have no reason to suppose that Congress will want to do that. The prime reason for the going on of all government is the fear of the next election, the thing that preserves every democracy is the people's vote. After all, remember you are not giving your power to a monarch, to a despot, you are not giving it to anybody who wants you to give it to them. On the contrary, you must remember, whatever

the power you give to Congress, the final check, the final say, is with you, it is your vote and your say at the next election that becomes congressional action; and unless you impute to yourself that dangerous character, you have nothing to fear from Congress. So, with regard to the dangerous character of Congress, you have the actual facts in the case of the first and second child labor laws, the law of the District of Columbia, and the history of Congress in the exercise of its broad powers for the past one hundred and fifty years. And above all, you must remember that the final check rests with you.

SECOND NEGATIVE REBUTTAL

William J. Papenbrock, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: At this point in the debate we would like to ask the Affirmative in what respects are the states inherently incapable of solving the question of child labor? The Affirmative maintain that the states have failed because of four reasons: first, migratory child labor; second, adult migration; third, powerful local influences; and finally, economic disadvantages of the state with a high standard of child labor control.

Let us examine these four points carefully. First: migratory child labor. The problem of migratory child labor is first of all a small problem, it is a local problem which can best be met by local action. Secondly, if the Federal government is to solve the problem of migratory child labor, it would mean the passing of another amendment, giving Congress the power to enter into the field of education, or the control of labor. First, it is a small problem. Herbert Hoover tells us that migratory child labor as it exists is negligible; it is so small that no statistics exist concerning it. The Affirmative told you that migratory child labor is centered in a few sections of the country, between New York City and New Jersey, between Ohio and West Virginia, and between North Carolina and Tennessee. Thus we see that it is a local problem and can best be met by a local action. The best remedy available is a more stringent enforcement of the educational laws by the states; for the children, no matter what states they are in, are always under the jurisdiction of some state. Therefore, a

more stringent enforcement of educational laws will solve the problem of migratory child labor. If the Federal government is to solve the problem it will mean that the Federal government will have to enter into the field of education or control the problem of adult migration.

Now as to the second problem in which the states have failed, that of adult migration. We have seen that if the states solved the problem of child migration, there would be no adult migratory laborers left who have been exploited in their youth. Therefore, adult migration will have been solved.

The third reason why the states have failed, according to the Affirmative, is the disadvantage of the state with the high standard of child labor regulation in economic competition with the state with the low standard. As a matter of fact it has been found in the past that it is not the state with the high standard but it is the state with the low standard that is at the economic disadvantage. Child labor stunts the mind and body of the laborer and therefore the state with the low standard has fewer skilled laborers in the end. Look at the situation today. Our greatest industrial states, New York, Illinois, Massachusetts and Ohio, the states with the very highest standards of child labor legislation, are our greatest industrial states. Evidently the adoption of high standards of child labor has not placed these states at a disadvantage in economic competition.

And fourth, the reason why states have failed, the Affirmative say, is that of powerful local influences. They have told you that the influences brought to bear against the state legislature through its lobbies have prevented the law from being applied effectively; but they have forgotten to tell you that influence far more powerful is brought to bear against Congress, influence which is finely organized, influence which will make itself felt. The state legislature is close to the people, it is responsive to the people, and this keeps down the evil of local influences. However, Congress is far distant from the people, it is not responsive to the people, and therefore the evil will enlarge greatly if we give Congress the power to control child labor.

Thus we see that the four reasons why states have failed are invalid. We have shown you that state action is meeting

the problem, that the states are succeeding, and finally we have shown you that Federal action will be impracticable.

Now the Affirmative have condemned the states for lax enforcement, and they have brought out the two worst examples of state enforcement, that of Mississippi, with one inspector, and that of Kentucky with four inspectors. However, they have forgotten to tell you that when the Federal law was in effect the Federal government furnished one inspector to every three states to see that the law was enforced, obviously an impossible task for any one man. This is the method of enforcement which the opposition uphold, or they maintain that we should build the vast and costly and terribly unwieldy bureaucracy that would be necessary to adequately enforce this law. This certainly is not the desire of the people today. They witnessed the establishment of one such a machine when prohibition was established; they do not wish to see another built of such a type.

SECOND AFFIRMATIVE REBUTTAL

Irving Kane, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: At the outset of this debate the Affirmative established the fact that six hundred and fifty thousand children today are being gainfully employed; and then, as a result of some marvelous mental gymnastics the gentlemen of the Negative reduced that figure to forty-nine thousand. In order to do that they had to exclude from the calculations those children working between the ages of fourteen and fifteen. We maintain, Ladies and Gentlemen, that any child fourteen or fifteen years old should not be working, and that his place is in the school. So the fact still remains that today six hundred and fifty thousand children are being gainfully employed that have no right to work; six hundred and fifty thousand children are being either improperly educated or not educated at all. Notwithstanding all these figures, of course a few thousand children in the mills or factories do not constitute an important industrial factor, but the same number of children in terms of human happiness and human energy constitute a problem with which the national conscience must deal.

Then the gentlemen of the Negative spent fully ten minutes outlining for you the various state laws, and how the states were meeting the problem of child labor today.

Notwithstanding all their description and all their figures, according to Grace Abbott, head of the United States Children's Bureau, only thirteen states measure up to the comparatively low standard set up by the two Federal laws. The fact still remains that what we must be interested in primarily is how much actual protection are our children getting. We have shown that six hundred and fifty thousand children today are being gainfully employed. Of course, the states have passed laws—Massachusetts passed a child labor law, to be sure, but does it prohibit child labor? No, Massachusetts exempted the important industries in the state, they exempted the industries which were the greatest employers of child labor. Georgia passed a child labor law, sure; but it didn't establish educational requirements for the children in order to get a working permit. Likewise in Massachusetts. Is that an improvement? That is a retrogression with regard to child labor laws.

So the gentlemen of the Negative would maintain that the states are improving their legislation. If that is so why is it that at the last meeting of thirty-one state legislatures, they flatly refused to adopt more progressive legislation? Why is it that Illinois refused to adopt a law raising the age limit of children in dangerous occupations from fourteen to sixteen? Why did Georgia refuse to prohibit the night work of children under sixteen?

According to Grace Abbott a new cycle is beginning with regard to child labor. More children are constantly being drafted for employment. Notwithstanding that fact the states are flatly refusing to adopt progressive child labor laws. So your contention that the states are meeting the problem is yet to be proved.

Then they maintain that this child labor problem is just one small part of a great social evil, that if we want to pass a national amendment we must deal with education, poverty, and mothers' pension laws. To be sure, all those things are part of the problem, but the fact remains that under the two Federal laws that were passed in 1916 and 1919, ten states raised their standards with regard to education, so it is evident that

the states' education laws will be stimulated under Federal control. Also over forty states already have educational requirements. The trouble is that they have exemptions with regard to certain industries. Under a national amendment exemptions will be eradicated, child labor will be met, and the educational laws will remain, thus taking care of the educational problem. With regard to mothers' pension laws, forty-two states have mothers' pension laws. That is already taken care of. In addition to that fact, the national government will be taking care of child labor. In regard to poverty, we maintain that those states with good labor laws don't have any cases of poverty. Let the gentlemen of the Negative point out wherein those states that have had progressive laws have had cases of poverty. We must remember we did have two instances where the national government had full control, under the two Federal laws and in the District of Columbia. Where was the poverty under those two laws? Let the gentlemen point that out. Our contention is more than mere theory.

Then they maintain that a national amendment cannot meet the diversified conditions over the United States, that there must be exemptions in the law. There is no reason, Ladies and Gentlemen, why a child in California has any more right to work than a child in Ohio. The matter is simply this: children at a certain age should be out of work, whether they live in California or any other state. For that reason, and since the states have been unable to keep these children out of work, we maintain that we must pass this national amendment.

THIRD NEGATIVE REBUTTAL

L. Robert Critchfield, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: It has undoubtedly struck your attention before this that the Affirmative and the Negative are directly opposed on three definite and general issues. Before taking up those points of disagreement in a summary of the whole debate, I would like to call your attention to this inherent defect in the Affirmative argument: they have first said to us that there is a national problem. Their whole argument is founded on the proposition that this is a national problem. But is it an evil that the states cannot eradi-

cate in time themselves? It is certainly not a national problem that the Federal government should take up unless the states are inherently incapable of handling that problem. In the face of the fact that the states are constantly increasing their restrictions, child labor today in the states is practically entirely under control. Is there any inherent defect in the states' ability to take care of the problem? Until the gentlemen of the Affirmative prove that inherent incapability there is no use of taking that power away from the states and giving it to the Federal government.

In the first place, we of the Negative have told you that there is no need for such a Federal amendment. We have shown you that the states today are living up to the standard laid down in the Federal laws. We have shown you that the states in many particulars, in dangerous occupations, in night work and in physical examinations, have gone far beyond the Federal laws. We have shown you it is a process of evolution; the states are gradually getting more and more control over the problem. If we let it go on, if we let control by the states continue, the problem will be ended. But the gentlemen of the Affirmative say: let's step in and cut the states' control off and insert new control.

Again, the gentlemen of the Affirmative say the state action has failed because there are low standards, they say night work is allowed in a great many states. The United States census says that forty-five states prohibit night work of children. The three other states in the union make a minimum eight-hour day.

They say too that Miss Abbott, head of the Children's Bureau, says only thirteen states today are up to the Federal standard. Shortly after that they quoted other statistics saying eighteen states were up to Federal standards. You cannot adequately judge whether they are up or not. The state of Massachusetts, for instance, was said not to be up to Federal standard because there were no regulations against children working in mines. There are no mines in Massachusetts; of course the state law wouldn't be up to the Federal standard. That statement by Miss Abbott is two years old, and since then fifteen states have gone on record with still more restrictions on child labor.

The gentlemen have said, secondly, state enforcement is breaking down on account of exemptions. Of course there are exemptions. We wouldn't want a law without exemptions. If we had a Federal law without exemptions it would be tyrannical and unjust, and no people want a law without any provisions for flexibility.

They have said, third, that there is inadequate enforcement. You can't pick out the low spots in a problem and say that exemplifies the whole problem. You have got to show us there is inadequate enforcement in all states, or in a sufficient number to make it necessary for the Federal government to step in. The gentlemen of the Affirmative didn't do that.

Finally they said, this is a national evil. Is it a national evil? According to the United States census 70 per cent of the child labor today, on their own figures, is in seven states—70 per cent in seven states. Is that distributed over the country? Is that a national evil? Is that such a problem as the Federal government should step in and take control of?

We have said this remedy they propose is impracticable; we have shown only a few children—forty-nine thousand children in the country today—who are suffering by any child labor. We have shown this to be part of a general problem. We cannot separate it from the whole problem without making the solution of the whole thing impracticable. The gentlemen of the Affirmative have given us this: they say the states are failing because there is migration. We have already pointed out to you that migration is negligible. Secretary Hoover says so. Furthermore, the gentlemen of the Affirmative have no facts to contradict our position that the solution for what migration there is, and it is very small, lies with enforcement of state educational requirements. We believe the requirements are being enforced now. The gentlemen believe there is still room for improvement. They could do more good working for the enforcement of those laws than for a change in the system of government.

They say local interests control the state legislatures and they can't control Congress, but where is the most influence brought to bear, in state capitols or in Washington? The Standard Oil Company have lobbies in Columbus, but are they as big in Columbus as in Washington? The most pressure is brought to bear in Washington.

If they believe that local interests can mould state legislatures to their personal wishes, why not take all power away and give it all to Congress? If they could influence one thing they could influence everything.

They have said that in competition between states having low and those having high standards, the high standard states suffer. But the high standard states are the most prosperous states. The high standard states—Massachusetts, Pennsylvania, New York, Illinois, Ohio, the most prosperous states in the country—according to their logic ought to be in a terrible financial and economic condition.

They have said, finally, that this amendment is not dangerous. We have shown you it is dangerous; it upsets the balance of equilibrium between the state and the Federal government; it interferes in education. They haven't denied that. They must defend centralized control of education. We have shown you it goes beyond protection, in fact injures the child.

Coming back to migration we have shown there is practically no migration. All efforts to show that this proposal is in line with our policy must be supported by proof that the problem is interstate, that there is a serious migration problem.

They say that the people have a check on Congress so that Congress will do only what the people want. But the facts show that the people didn't want this amendment which Congress passed. Forty states voted it down almost unanimously. The check didn't work. Then what reason have we to believe it will work in the future?

For these reasons we ask you to join with us and heartily condemn this amendment that will change our whole system of government.

THIRD AFFIRMATIVE REBUTTAL

William A. D. Millson, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: I have just completed an outline of this whole debate thus far and now without any heat of argument and as impartially as I can in the position I happen to be in at the present time, I would like to review for you the cases of both the Affirmative and the Negative. You will remember that we at the beginning of this de-

bate declared that child labor had become a national evil, that there were destructive exemptions in existing laws, that there were many violations. We mentioned the specific violations and the specific exemptions. We mentioned high standard states where there was lack of enforcement; we cited New York, Illinois, Wisconsin and Massachusetts. And then we pointed out to you that between the ages of ten and fifteen there were today five hundred thousand children in industry. Now what did the gentlemen say in regard to that? They said four hundred and thirty-six thousand of those children who were working were between the ages of fourteen and fifteen. What has that to do with it? We said that between the ages of ten and fifteen there were five hundred thousand children in industry. The gentlemen did not deny that, they merely said that four hundred thousand were between the ages of fourteen and fifteen. We hope that a child of fifteen is no different as far as protection is concerned from a child of thirteen or a child of fourteen. A child of fifteen needs the protection as well as any one else, therefore we conclude that what we have declared to be true is true, that today in industry there are five hundred thousand children in need of protection. The gentlemen have not brought out any argument at all, any statistics at all to prove that is not true, they have said just what we said, between the ages of ten and fourteen there were four hundred thousand children in industry.

Then we pointed out to you that there are today one hundred and fifty thousand children in dangerous occupations. To that the gentlemen said nothing whatsoever, so we can conclude that what we stated to be true is true, that today there are six hundred and fifty thousand children in industry unprotected, constituting a national problem.

We, therefore, have proven our first contention, that child labor has become a national evil. These children pass from state to state; these children who have been exploited, after they grow up become part of our national citizenry, therefore have become a national problem. There are today in industry six hundred and fifty thousand children unprotected. That the gentlemen have not denied in any way, or form, but they say that the states today measure up to the two Federal laws. How do the states measure up to the two Federal laws? By

their own analysis. They looked over these laws and they concluded that the states measured up to the two Federal laws, but Miss Grace Abbott, who knows what these laws are about, analyzed these laws and concluded that there were today, and here is her exact statement, "Only eighteen states substantially, and only thirteen states entirely measure up to the two Federal laws."

The gentleman mentions that we said at one time eighteen and another thirteen; we did not, we stated what Miss Abbott states, that eighteen substantially and thirteen entirely measure up to those laws. She is in position to know the general condition throughout the country.

And then we substantiated that with a statement from the director of Social Foundation, R. G. Fuller, who states exactly the same thing when he says, "Thirty-five states failed to measure up to the two Federal laws." We, therefore, see in general throughout the country that we have a deplorable situation, only thirteen states entirely measure up to the Federal laws.

The gentlemen then said that you cannot meet local conditions with a Federal amendment. Then, we remember what we asked them to do. I asked them in the first place: if you think that this Federal amendment cannot meet local conditions, if you think that it will involve education, why not point out the evils under those two Federal laws? I asked him to do that. He said: "How can I point them out, I can't do that. The two Federal laws are ineffective." That was his statement, but let us see what the facts are. In the 1910-20 Census, Volume 4, in industrial employment, we find a decrease of 60 per cent in the manufacturing or mechanical industries; a decrease of 29 per cent in cotton mill employment. In regard to those industries which were not affected by the two Federal laws, what do we find? We find an increase in public service of 110 per cent, in clerical service of 12 per cent. There we have in the census absolute proof that the Federal law was successful. The gentleman puts his own authority against the authority of these statistics. Then we find this in addition, that every one of the states officially declared that they wanted this Federal law, that they thought it was effective. We place this against the word of the gentlemen. We can, therefore,

conclude that this would actually meet the situation and would be effective. Therefore, when the gentleman says that it will not meet these local conditions, the gentleman is not talking about Federal action at all, and his answer was not an answer at all. We have conditions under the two Federal laws to prove that Federal control did not involve control of education. The states take care of education today, but they have damaging exemptions allowing children to go to work. If you pass a Federal law those exemptions are taken care of automatically, they become illegal and no child can go to work.

The gentlemen have said it is dangerous, they say we are going too far. In what has Congress gone too far? How do they know Congress has gone too far? Congress cannot go too far, Congress cannot pass unreasonable legislation, under the Bill of Rights, regardless of this amendment. In addition to that, Congress hasn't even the disposition to go too far. If they believe it has the disposition to go too far, why didn't they point it out under the two Federal laws. Congress thought she had the power, did she go too far? Not at all. She has the power today in the District of Columbia, does she go too far? Has she tried to go too far there? Not at all. Why don't the gentlemen point it out. The states have entire power too, have they gone too far? No. The gentlemen fear Congress, they fear to give Congress any power, yet they give the states entire power. It is not a question of Congress going too far, it is a mere question of national control of a national evil.

We plead that you should adopt this amendment.

CHAIRMAN ENGLAND: Now that you have heard both sides present their cases will you please take your ballot and turn to the portion headed, "After the Debate" and mark it to show your present opinion on this question?

Mr. Beman took charge of the meeting at this point.

CHAIRMAN BEMAN: Anyone of you is permitted now to ask any question of any one of the speakers, or you may ask a question and leave it open for any of the speakers on either side to answer.

MR. SILBERT: I have one question I want to ask. I understood one of the Affirmative to say that only thirteen states

had passed legislation which was up to the standard that was in the Federal act.

I would like to find out—it will require a vote of thirty-six of the legislatures of the United States before an amendment can become operative. If only thirteen legislatures have passed satisfactory legislation for their own states how do you expect to get thirty-six legislatures to pass necessary Federal legislation, when they won't even pass it in their own state?

MR. WALDER: That is not the question for the debate this evening. As a matter of fact I think about thirty-nine or forty states already have rejected this particular amendment, but we are not arguing whether the states have or have not rejected it; we are arguing whether the states should or should not, and the reasons on which we base our argument that the states should ratify are the reasons we stated, the reasons the Negative offer that the states should not they have stated. I don't think there is any inconsistency there.

MR. SILBERT: The question I raised was, isn't it reasonable to suppose that it would be easier to get a legislature to enact a state law than to have that same legislature enact the same legislation into Federal law?

MR. WALDER: I think there are two answers to that question. First, it is largely a matter of opinion; and secondly, my own conviction is, no.

MR. KUTASH: The thing is that you are not having the legislature pass that national legislation, you are having Congress pass it. We have maintained in this debate that Congress is not subject to those influences the state is subject to. At the last election every Ohio legislator, without a single exception, I believe, was elected on a platform promising that he would vote for this amendment, and when the amendment came up it was defeated. The fact is you don't hear much about your state legislature. They can get away with almost anything. Local manufacturing and local agricultural interests can influence a state legislature in cases where they cannot influence Congress because Congress is in the center of national attention and cannot try to do things that a state legislature would do. In one case you have the state legislature, a comparatively obscure body, in the other you have Congress. Because of the character of Congress, as contrasted to the char-

acter of state legislatures, we maintain Congress would do what the states would not.

MR. SILBERT: You lose my point; in order to give Congress the power, the states must ratify the amendment; therefore, I say that state legislatures would be more loath to ratify or give to Congress the power to legislate over the state than it would to legislate the same thing itself.

MR. KUTASH: We grant you that, but as the first speaker said, the question is: not would they, but should they, pass this amendment.

MR. ZIPKIN: I would like to ask the gentlemen of the Affirmative how they can reconcile the addition of the child labor amendment which is legislative in character to the Constitution of the United States which is based on principles of law.

MR. MILLSON: We are asking for the passing of an amendment to the Constitution, we are not passing legislation at all. We are passing an amendment to give to Congress a power which is a broad power; it is not a specific statute, itself, it gives to Congress the power to regulate and prohibit child labor, but they can pass any other regulation or any other law that they desire. In other words, we are not passing legislation, we are merely giving to Congress a power which Congress thought she had but evidently did not.

MR. ZIPKIN: I don't believe you entirely caught my point: I want to know this: This Constitution of the United States declares certain basic principles of law. Now the several states passed, for instance, the prohibition amendment. That is not basic in character. That type of law is merely regulatory, and laws of that type do not belong in the basic law of the state or nation, it is legislative, it is for the legislature, or in the case of the national government, Congress, and if Congress hasn't the power, it must be left to the individual states.

MR. MILLSON: That is true. The Constitution contains certain basic principles of law but the Constitution also contains certain basic principles of government, it gives certain powers to the government and to the different spheres of government. All that we are asking is that an additional power to those which are already given to Congress shall be added to the power of Congress which Congress already thought she had. We are not asking any further legislation be given Congress,

but that Congress be given an additional power through an amendment, which the Constitution itself makes necessary.

MR. M. E. HARRIS: Whether or not there has been adequate state enforcement becomes debatable to me largely because there are certain exemptions in certain parts of the country. These exemptions are brought about by the various conditions in the various states. If the question of child labor control was turned over to the Federal government, what assurance is there or what means have we of knowing that the same exemptions will not have to be permitted under Federal control?

MR. KUTASH: The point we make with regard to exemptions by the states is that they are usually put in for no other purpose except vitiating the law itself. We pointed out the state of Mississippi where they passed a pretty good child labor law but exempted fruit and vegetable canneries, the biggest employers of child labor in the state. It is an exemption that does away with the entire law. They satisfy the people of the state, they satisfy the humanitarians by giving them an apparently good law and put in such an exemption that the law doesn't mean anything.

In the case of national legislation there must undoubtedly be exceptions too, but they are of an entirely different nature. Obviously, there cannot be one set of regulations that would apply universally to all kinds of child labor. Hence Congress provides for classifications. It provides one set of regulations for agriculture, another for manufacturing, and so on. In this way it takes care of different conditions by discreet exceptions. The point is that the exceptions are wise, not vicious, ones. To prove that Congress will not pass vicious or worthless legislation, we have already shown how Congress is free from those factors which have hindered the states, and what is even more important we have shown how Congress has actually done its work in the past.

MR. THOMAS: It certainly seems hardly fair that the Negative should not be asked a question on the subject to give them a chance to speak up also. Let us confess that possibly a regulation by the Federal government would technically be an encroachment on states' rights, but if there is such a fact as employed child labor would it not be a greater benefit to the United States at large to take away states' rights in order to do away with child labor?

MR. CRITCHFIELD: There is a question of balance there. We believe that the maintenance of states' rights is more valuable than their infringement in an effort to end child labor. When you balance those two things together, we believe the states' rights are so valuable in themselves and the opportunity of maintaining them from infringement is so valuable that no possible chance of benefiting child labor can outweigh them, especially because we have to consider further the fact that the states are already taking care of child labor from our viewpoint. The only thing you gain by the amendment is a possible opportunity to do something more than the states are doing, so you balance the opportunity to do something more, which is not very definite, against a positive infringement on states' rights, a violation of our system of government. The only possible result is, it isn't worth while.

MR. THOMPSON: Let me ask you this. Let us figure on percentage figures to make myself better understood. Let us say that the states under their operation succeed in a 50 per cent taking care of the matter. If the Federal government, with the states cooperating, were to get a 90 per cent enforcement of child labor, in view of the fact that the main purpose of the government is for the people themselves, to take care of the citizens, members who live in the community don't you think then that if there can be an increase in taking care of child labor or doing away with it, that it would not be more beneficial than to take away the states' rights, professedly so, and increase the usefulness of such legislation?

MR. CRITCHFIELD: The only place where it would be excusable to violate states' rights in order to benefit children working would be where there is no other possible chance to effect the same result. When there is no possible conceivable way for the states to end child labor, when they are inherently incapable, some slight infringement of states' rights would be justified because that would be necessary for the safety of the people. Short of any such state of facts, infringement on states' rights should be condemned.

MR. BEMAN: Mr. Black said that in the state of Minnesota mining was a very unimportant industry. I want to ask him if it isn't a major industry, a large part of the iron ore produced in this country, does it not come from the mines of Minnesota?

MR. BLACK: Mr. Chairman, I believe that is the case, that there is a large amount of mining in the state of Minnesota. I meant to say that the ten states which did not include regulation of children in mines included such states as Rhode Island, Massachusetts and South Dakota. Although I have never been in the largest number of states which do not regulate the children in the mining industry, it has been stated by authority, Nina F. Allen, who was former chief of the Child Labor Tax Division of the Treasury Department, that these ten states—that the mining industry in these ten states was a comparatively unimportant industry. That the states where mining is an important industry did regulate child labor in this respect.

MR. BEMAN: I would like to ask Mr. Critchfield this question: he said that the amendment gives Congress the power to control labor of children up to eighteen years of age, this means that children who have finished school would not be permitted to work. How does he get that meaning out of it?

MR. CRITCHFIELD: Mr. Chairman, no state has any regulations today which provide that a boy or girl must go to school after the age of sixteen, so that a boy certainly would be out of school. We say that after he has reached that age and the Federal government has been given the power to limit, regulate and prohibit his work, that that includes all power over the thing regulated, and so I believe the Supreme Court said in Gibbon versus Ogden. If it gives Congress the power to have all control over the thing regulated, it certainly gives Congress the power to do anything it wants with that boy between the age of sixteen and eighteen. We say that there is a chance that Congress will keep him from working; there is more than a chance, there is a probability, because Congress refused to lower the agricultural limit and refused to limit the amendment any further than the age of eighteen. It remains for the Affirmative to show us how Congress is going to be kept from doing that. They have only a guess on that; we have the presumption on our side, as I believe the most reasonable people would agree.

MR. BEMAN: That doesn't answer the question at all. I wrote down exactly your words; you said, "The amendment gives Congress the power to control the labor of children up to eighteen years of age, this means that children who have

finished school will not be permitted to work." It doesn't mean anything of the kind at all, it means Congress has power to control labor, you simply drew a conclusion that is not justified at all, it doesn't mean any such thing at all.

Then you made another very rash statement, "Giving Congress unlimited power was the same as signing a blank check," do you mean any such thing as that?

MR. CRITCHFIELD: I certainly do.

MR. BEMAN: That seems a wild, rash statement. Congress has unlimited power in lots of matters, as the British Parliament has unlimited power in all governmental matters; it is no more parallel to the blank check than anything in the world —a wild, rash statement.

MR. SILBERT: I would like to ask the Affirmative, Mr. Millson, in outlining the four reasons why there should be Federal enactment, he gave as his fourth reason, for economic reasons, by reason of different standards in the various states, some having high standards and some having low. Is not that the proposition laid down?

MR. MILLSON: That was what Mr. Adams said.

MR. SILBERT: I would like to know how Federal enactment can change that. Wouldn't the state laws continue in force, and wouldn't the state governments continue to enforce the state law, so that if the state law is more rigid than the Federal law, the state law will be enforced by the state courts? How is that going to change the present situation?

MR. ADAMS: Mr. Chairman, of course you are right in one respect, that the states can go beyond what the Federal government may do. As we showed, there were only eighteen states that did come up to the Federal standard. The proposed law will bring all of them up to at least a minimum. Then if the states wish to go beyond that, of course there will be no interference. But you have the advantage of a minimum standard that will apply throughout the nation, so the manufacturers of Massachusetts, for example, in competition with the manufacturers of the south will at least have the protection of a minimum standard in those industries of the south.

MR. SILBERT: But there will still be an economic difference; if there is any now, it will still be there later, maybe lessened somewhat.

MR. ADAMS: Oh yes, it will be lessened by a great deal, though.

MR. JEREMIAH: I would like to ask the Affirmative for what reason Congress should have the power to enable it to govern this question of child labor up to the age of eighteen years when it is practically the unanimous sentiment throughout the country that children should not attend school or be compelled to attend school after the age of sixteen?

MR. KUTASH: The answer to that is this: there are certain industries, especially in connection with the manufacturing of explosives and the oiling of machinery while it is in motion, and especially dangerous occupations of that type, where they find the children between sixteen and eighteen are especially liable to accident. Between those years they would take a chance where a person of maturer judgment wouldn't. You are writing something in the Constitution that will look out, not for this year, but next year; eighteen was set as a moderate age, some states prohibit dangerous employment up to the age of twenty-one, so eighteen is a moderate age limit. There would be given to Congress the power to regulate up to eighteen, with the idea that the power might sometime have to be used in especially dangerous industries. That is the reason for the eighteen-year limitation instead of what some propose as the sixteen-year age limit.

CHAIRMAN ENGLAND: Are there any further questions? If not, I will announce the decision. According to the ballots cast by the audience the Negative won the decision by a vote in the proportion of three to two. We have a custom of having a former Reserve debater at our debates. He gives a different sort of decision, a judgment on the relative merits of the debating of the two teams. Our judge this evening is Mr. Jeremiah, W.R.U. '12. He says he thinks the more effective debating has been done by the Negative team; so it was a Negative victory straight through.

At this time, on behalf of the Reserve Debating Association, I wish to thank you for your invitation to the teams to debate here and your interested attention to the discussion.

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